



**MISSOURI  
ATTORNEY  
GENERAL'S  
OFFICE**

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A N N U A L  
R E P O R T

**ATTORNEY GENERAL JEREMIAH W. (JAY) NIXON**

**1996**

# ANNUAL REPORT



**FROM**

**MISSOURI  
ATTORNEY  
GENERAL  
JEREMIAH W.  
(JAY) NIXON**





**1995  
ANNUAL  
REPORT**

**A MESSAGE FROM**

**ATTORNEY GENERAL**

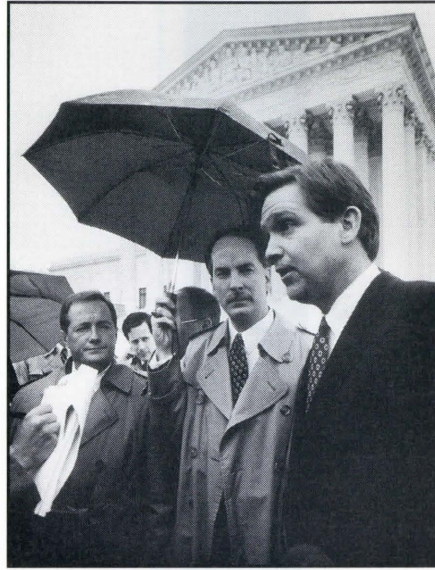
**JEREMIAH W. (JAY) NIXON**

**I** am pleased to provide this review of the accomplishments of the Office of Attorney General during 1995. As Attorney General, my goals have been consistent:

- To aggressively fight all forms of crime including violent crimes, consumer fraud, environmental crimes and corruption in professional and governmental ranks.
- To save taxpayers' money. In our office, we have consistently found opportunities to work more effectively and efficiently, and have promoted common sense changes in Missouri law that help restore balance to the legal system and our government.

In 1995, our office handled cases in every county of Missouri — from obtaining 16 murder convictions in special prosecution cases, to prosecuting those who pollute Missouri's environment, to securing criminal convictions for those who profit illegally at the expense of senior citizens and other unsuspecting consumers.

The Missouri Attorney General's Office successfully argued before the U.S. Supreme Court to end a portion of the Kansas City schools desegregation plan mandating raises for all employees and continued payments until student test scores reach a national average. The state and



**Attorney General Jay Nixon**, right, and the state's top attorneys working on the Kansas City desegregation case field questions following arguments before the U.S. Supreme Court. From left are Deputy Attorney General Don Downing and Litigation Chief Counsel John Munich.

the school district later reached an agreement that, when combined with earlier cuts in the year, saved taxpayers \$80 million in 1995.

**The commitment to bring** common sense changes to our laws also took me before Congress to support federal legislation to reduce the number of frivolous lawsuits filed by inmates in the nation's prisons. Our office already had been successful this year in helping get state legislation passed to reduce meritless inmate lawsuits in Missouri.

**I also went** before congressional committees to encourage support for legislation reforming the federal appeals process for death row inmates who abuse the process by delaying their sentences through legal action.

On the local front, our office helped obtain tougher juvenile justice laws that will help law enforcement and school officials deal more effectively with violent juveniles.

**To fight** workers' compensation fraud, a unit was established to prosecute individuals who fraudulently try to collect workers' comp benefits and businesses that do not carry workers' comp insurance for employees. The unit collected more than \$130,000 in fines, penalties and restitution. Also, workers' compensation insurance rates dropped in Missouri, bucking a national trend.

Consumer attorneys obtained criminal prosecutions against 10 defendants for consumer and securities fraud. Through aggressive action, about \$10 million was recovered from companies and individuals who defrauded Missourians.

**These and other** cases summarized in this Annual Report to Missourians highlight my commitment to saving money and fighting crime.

*Jay Nixon*


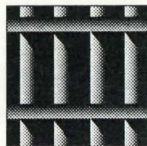


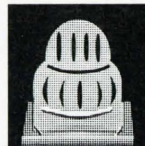






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## JANUARY

**Jan. 6:** The Environmental Protection Division asks for a court order to force Marty Nickelson, owner of a tire dump in St. Francois County to pay for the removal of nearly 6,000 tons of waste tires.

**Jan. 18:** Darrell Adrian of Hannibal is charged with securities fraud and securities nonregistration following allegations by the Consumer Protection Division. On **June 20**, he pleads guilty. On **Sept. 1**, he is sentenced to five years' imprisonment for securities fraud and to a three-year suspended sentence for selling unregistered securities. He is ordered to pay \$27,500 in restitution.

**Jan. 18:** Springfield used-appliance dealer David Thomas pleads guilty to criminal charges of defrauding consumers through his business, Budget Appliance.

**Jan. 20:** Attorney General **Jay Nixon** asks a federal court to allow the enforcement of Missouri campaign finance laws approved by 74 percent of Missouri voters.

**Jan. 23:** Nixon calls for new state legislation that would extend prison time for inmates who file frivolous lawsuits and would take money from their spending accounts.

**Jan. 27:** About 230 city and county officials throughout Missouri get a lesson in legal issues and ethics during a free, daylong seminar sponsored by the AG's Office. On **March 16**, 165 more officials attend a second Ethics in Government seminar.

**Jan. 27:** The 8th Circuit Court of Appeals affirms the conviction and death sentence of Ralph Feltrop for the 1987 murder of his girlfriend in Jefferson County.

**Jan. 27:** The AG's Office appeals a federal court order that postpones the ruling on the constitutionality of Missouri's campaign finance law.

**Jan. 30:** Nixon announces that criminal attorneys will serve as special prosecutors in two murder trials in Reynolds and Randolph counties.

**Jan. 30:** Big River Land Co. agrees to clean up a Washington County tire dump it

inherited when it bought property on which 200,000 tires had been dumped.

**Jan. 31:** The owner of Henry County Sanitary Landfill is sued for allegedly not complying with solid waste and clean water laws when it closed its site.

## FEBRUARY

**Feb. 3:** Nixon and state Reps. Brian May and Craig Hosmer announce proposed legislation to change Missouri juvenile law, allowing an exchange of information among school officials about juvenile offenders.

**Feb. 3:** Citing confusion among candidates for public office over which campaign finance laws are in effect, the AG's Office asks a federal appeals court to lift a ban against enforcement of Proposition A.

**Feb. 3:** Nixon announces he is reviewing proposals for a merger between St. Louis-area Schnucks and National Super Markets as they relate to antitrust laws. On **March 8**, the AG's Office reaches an agreement on a proposed acquisition of National stores by Schnucks.

**Feb. 16:** Nixon addresses proposed reforms in the state juvenile justice laws at the Hannibal Police Crime Summit.

**Feb. 24:** Criminal attorneys obtain a first-degree murder conviction against Linda Lou Ealey, who poisoned an elderly Caldwell County woman with a prescription drug. On **May 18**, she is sentenced to life in prison without probation or parole.

**Feb. 27:** Governmental Affairs attorneys negotiate a consent injunction freezing activities of the Lichtenstein Foundation, a \$13 million charitable foundation in St. Louis, pending a financial review. On **Nov. 1**, the attorneys sue to oust the board president and two members for allegations of self-dealing and misappropriation of funds.

**Feb. 28:** A federal judge grants a request by Nixon to set a trial date on the state's motion for full unitary status in the St. Louis Public School District.



## MARCH

**March 3:** A state investigation into missing assets at Kansas City schools uncovers hundreds of items of new equipment and furniture bought more than five years ago that were stored and never used.

**March 9:** The AG's Office files for an injunction to bar access of a former day-care worker arrested for child sexual abuse from three St. Louis day-care centers.

**March 13:** In a case handled by the Labor Division, an appeals court upholds a ruling that will help the Labor and Industrial Relations Department determine prevailing wage rates by giving uniform meaning to various types of work performed in public works projects.

**March 13:** Nixon says he will file an antitrust suit to stop any unlawful restraint of trade if the NFL fails to approve the Rams' proposed move to St. Louis.

**March 23:** Criminal charges are filed against Bruce Becker, president of Capitol Queen & Casino Inc. He is accused of lying on the company's application to win a gaming license.

**March 28:** Nixon meets with the chairmen of the U.S. Senate and House judiciary committees to encourage support for legislation reforming the federal appeals process for death row inmates.

**March 28:** Consumer attorneys sue Kelly Knievel (son of daredevil Evel) and his Las Vegas telemarketing firm for allegedly swindling senior citizens out of thousands of dollars. On **June 12**, Knievel is barred from doing business in Missouri and agrees to pay \$150,000 in consumer restitution to Missouri and eight other states.

**March 29:** The Environmental Protection Division sues R.V. and



On **June 9**, two legal briefs challenging a Kansas City desegregation court ruling are named the top legal briefs of the year by the National Association of Attorneys General. Litigation Chief **John Munich**, second from left, was the principal author. Other attorneys on AG **Jay Nixon's** litigation team are **Bart Matanic**, left, Nixon, center, **Norm Siegel** and **Michael Fields**.

## KANSAS CITY DESEGREGATION ACTION

**Jan. 11:** The AG's Office argues before the U.S. Supreme Court to end a portion of the Kansas City deseg plan mandating raises for all school employees and continued deseg payments until student test scores reach a national average.

**Feb. 17:** Nixon signs a settlement agreement reducing the state's deseg payment to KC schools by \$22.5 million, but refuses to agree to a provision halting the oversight activities of a monitoring committee.

**June 12:** The Supreme Court rules in favor of Missouri. The *Jenkins v. Missouri* ruling is considered significant in deseg cases throughout the country because it reiterates the court's position that federal court control of schools should be a temporary solution. Also, the Supreme Court said the lower court was outside its authority in ordering a cross-district solution for an intradistrict problem.

**June 15:** Nixon says the state will not pay a scheduled \$2.7 million salary payment to KC schools. Citing the June 12 ruling, he says the state is not obligated to pay across-the-board raises.

**June 28:** The U.S. Supreme Court vacates a ruling by an appeals court that may have required taxpayers to permanently fund portions of the deseg program as a precondition to ending the state's role in the deseg plan.

**July 7:** Nixon announces a tentative agreement with the district that, combined with earlier cuts, will save taxpayers \$80 million in 1995 and require continued cuts until 1999 when all deseg payments end.

**Oct. 26:** Litigation attorneys file a motion in court seeking dramatic reductions in state deseg payments to KC schools and requesting immediate enforcement of the June 12 decision.





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Mavis Wilson for operating two Bootheel tire dumps without a permit. On **Dec. 12**, a judge issues a permanent injunction ordering the couple to submit a tire-removal plan.

**March 29:** In the first trial under the state workers' compensation statutes, a representative of Home Insurance Co. is found guilty of four counts of workers' comp fraud for making fraudulent statements to an injured Salvation Army worker in an attempt to deny her benefits.

**March 30:** SEMO Pork, owner of a hog production facility near Cape Girardeau, pleads guilty to charges it illegally discharged animal waste into a creek on two occasions.

**March 31:** To focus attention on the need to reform the federal appeals process, Nixon releases a list of 15 murderers on Missouri's death row who have abused the process, delaying their executions an average of 9 1/3 years. Nixon had sent letters to Missouri's U.S. senators, encouraging support for legislation reforming the federal appeals process.

## APRIL

**April 4:** An appeals court upholds the conviction and sentence of James Williams Sr. of St. Charles County. He murdered his wife and his lover's husband in 1983.

**April 11:** A federal judge gives Nixon the go-ahead to pursue civil damages against St. Louis lawyers Morris Kessler and William Roussin and nine others involved in abusing the state's Second Injury Fund.

**April 12:** A Mountain Grove woman who admitted faking a robbery at the convenience store where she worked is arraigned on a workers' comp fraud charge. In her claim for workers' comp benefits, she says she hit her head while phoning in the "robbery." On **July 26**, she pleads guilty.

**April 12:** A Poplar Bluff hospital and physicians partnership agree to a permanent restraining order to resolve allegations they engaged in unfair and anticompetitive business practices to dominate the health-care market in the Butler County area.

**April 14:** The Criminal Division will assist the Callaway County prosecutor in the murder trial of James Hampton, accused in the 1992 beating death of Frances Keaton of Warrenton.

**April 14:** Rebecca Broyles of Gladstone pleads guilty to criminal charges she misled investors and used money intended for real estate investments for her own use. On **July 13**, she is sentenced to eight years in prison for each of six counts of securities fraud.

**April 14:** Nixon files a motion with the Public Service Commission, opposing a plan by Southwestern Bell to overlay a new phone area code within the existing 314 area.

**April 17:** The state Supreme Court grants a motion to set an execution date for Emitt Foster, convicted of a 1983 execution-style murder in St. Louis County. On **May 3**, he is executed.

**April 18:** A federal judge agrees with Nixon and denies a request for a permanent injunction that would have prevented enforcement of state laws limiting campaign contributions. The AG's office last month had challenged a restraining order by the judge to prevent enforcement of Proposition A.

**April 20:** The Consumer Division obtains a temporary restraining order to stop a Raytown man from marketing a misleading sales promotion to auto dealers, who then sent it to potential customers.

**April 21:** Four St. Louis-area Bommarito auto dealerships agree to pay restitution to customers who bought nonmanufacturer warranties the dealerships did not honor.

**April 25:** In marking National Crime Victims' Week, the AG's Office makes available a free booklet that describes the rights of crime victims and their families. On **April 28**, Nixon holds a news conference in Hannibal to talk about the rights of crime victims and also to renew his call for reform of the federal habeas process for convicted murderers.

**April 27:** Nixon files a motion seeking a halt to any additional construction financed by state desegregation money in St. Louis County schools.

**April 28:** In a speech to the National Sheriffs'



Association, Nixon calls for changes in state law to keep schools gun-free. In a letter, Nixon calls on legislators to strengthen Missouri laws prohibiting guns on school property. Earlier in the week, the U.S. Supreme Court struck down a federal law that made it a crime to carry a gun within 1,000 feet of a school.

## MAY

**May 3:** Nixon warns consumers to beware of scam artists looking to exploit their desire to contribute to Oklahoma City bombing survivors and their families.

**May 3:** Criminal attorneys charge Howard Simpson of Cameron with misrepresenting injuries to obtain more than \$7,000 in workers' comp benefits.

**May 8:** The AG's Office makes available to the public free copies of a new brochure that provides information on credit and credit-repair scams.

**May 10:** The AG's Office goes to court to oppose the American Civil Liberties Union's request for a temporary restraining order to prevent enforcement of two new state campaign finance laws.

**May 15:** The owners of two closed Springfield credit-repair businesses are sued after they falsely promised consumers they could repair bad credit for a fee.

**May 18:** In a letter to U.S. AG Janet Reno, Nixon calls for the Department of Justice to end its opposition to the state's position in the 23-year-old St. Louis desegregation case.



## AG-HIGHWAY PATROL BENEFIT

AG Jay Nixon, center, presents Highway Patrol Sgt. Rusty Bourg, right, and patrol recruit Darren Juntunen with money raised in an April 25 benefit basketball game. Nixon and the AG team beat the Patrol recruit class 91-66. The AG's Office raised more than \$850 for trooper Jerry West and his wife Susan who were injured in a car accident.

**May 19:** Nixon calls upon the Army Corps of Engineers to abandon the proposed "preferred alternative" plan for the Missouri River. The plan calls for increased water flow in Missouri in the spring and a reduced flow in the fall.

**May 19:** Nixon discusses updates in laws involving domestic violence, crime victims' rights and juvenile justice at the celebration of the 15th anniversary of the passage of the Adult Abuse Law, sponsored by Legal Services of Eastern Missouri.

**May 19:** The Missouri Supreme Court sets an execution date for Larry Griffin, convicted of a 1980 drive-by shooting in St. Louis. On **June 21**, he is executed.

**May 19:** The AG's Office is appointed special prosecutor to investigate allegations of petition fraud in Independence. On **Nov. 13**, three Independence residents are arraigned on felony charges of

knowingly furnishing false information to an election authority.

**May 23:** The Consumer Division makes available a free booklet for flood victims that warns them about common scams and offers tips on how to repair flood damage.

**May 24:** Criminal charges are filed against a Kansas City attorney and his law firm for falsifying a riverboat gaming application filed on behalf of Boyd Gaming. At the time of the application, the law firm represented Boyd.

**May 31:** Nixon announces that Mirax Chemical Products Corp. of St. Louis and its vice president paid a \$10,000

fine for failing to provide workers' comp insurance and agreed to pay \$18,856 to an injured worker who qualified for coverage.

## JUNE

**June 6:** The Criminal Division will assist the Shannon County prosecutor with the trial of Tommy Lee Jordan, charged with first-degree murder and armed criminal action in the 1994 shooting death of Ricky Brown of Eminence.

**June 8:** David Paro pleads guilty to five felony counts of child abuse for videotaping nude minors as they used the tanning booth at his video store in Buffalo. He also pleads guilty to two misdemeanor counts of endangering the welfare of a child.





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**June 8:** A federal district court denies the habeas corpus petition of Eric Schneider, convicted of the 1985 deaths of two Jefferson County teachers.

**June 9:** Criminal charges are filed against the owners of a sawmill in Birch Tree after they allegedly failed to provide workers' comp insurance for employees and failed to report an employee accident.

**June 13:** A judge orders a Lawson animal shelter to upgrade its facilities in response to a lawsuit filed by the AG's Office. This case is the first enforcement of the 1992 Animal Care Facility Act.

**June 13:** The AG's Office sets up a restitution fund for consumers who were members of the Grandview and Country Club Plaza locations of the Mademoiselle/Figuretique Health Club when the clubs closed in 1994.

**June 15:** A victory in bankruptcy court will recover \$405,000 for farmers. The AG's Office had argued farmers were entitled to full reimbursement from the bankrupt Childress Grain Elevators, which had elevators in Knox and Callaway counties.

**June 16:** National health-care provider Caremark Inc. will pay more than \$1.2 million to Missouri as part of an agreement over claims of kickbacks and overpricing in their Medicaid claims.

**June 21:** The Medicaid Fraud Control Unit files six felony counts of neglect of a nursing home resident against Barbara Peoples, a supervisor at the former Latham Care Center in California.

**June 29:** The Consumer Division obtains a temporary restraining order to stop Easy Auto Sales and Chippewa Motors of St. Louis from allegedly allowing consumers to test-drive unsafe junk salvage cars and selling them as reliable transportation.

## JULY

**July 1:** Nixon establishes a Workers' Compensation Fraud Unit, which will specialize in the prosecution of workers' comp fraud and noncompliance cases. Attorney **Tim Anderson** will head the unit.

**July 1:** A Callaway County jury recommends the death penalty for Richard Clay, convicted of first-degree murder in the 1994 shooting death of Randy Martindale. In **September**, the judge sentences him to die.

**July 6:** The Missouri Supreme Court sets an execution date for Robert Murray, convicted of the 1985 execution-style slayings of two St. Louis cab drivers. On **July 26**, he is executed.

**July 6:** The habeas corpus petition was denied for Richard McMillin who killed Jennifer Scurlock in 1987 near Republic. He struck her repeatedly with a gun, doused her with gas and set her afire. When she attempted to flee, he shot her twice.

**July 12:** Stephen Ray Hunt of Springfield pleads guilty to six felony charges, including forgery, stealing, securities fraud and unlawful merchandising practices, following charges filed by the Consumer Protection Division. On **Oct. 6**, he is sentenced to seven years in prison.

**July 13:** Nixon announces the AG's Office will use a price gouging rule to protect flood victims and recent tornado victims in Moberly and other areas against inflated prices on items such as construction materials.

**July 18:** The AG's Office sues three former operators of Tri-States Mortgage in Springfield for allegedly charging advance fees on loans, a violation of state law.

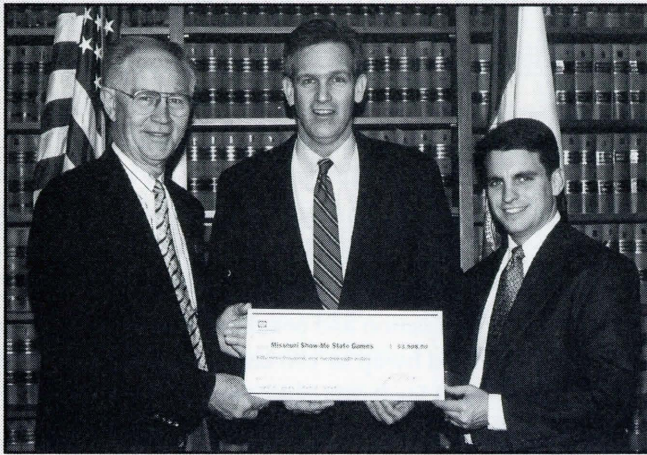
**July 18:** Gregory Sams of Lee's Summit is charged with two counts of felony securities fraud after he allegedly defrauded two investors of \$30,000.

**July 21:** In a case prosecuted by the AG's Office, a southwest Missouri woman is convicted of first-degree murder. Sheena Eastburn had persuaded two men to shoot her ex-husband in 1993. On **Aug. 22**, she is sentenced to life in prison without probation or parole.

**July 24:** Two Kansas City manufacturers agree to pay \$28,000 to the Clay County School Fund to resolve allegations they violated state environmental laws.

**July 24:** The owner of a closed Springfield credit repair service is ordered to pay





## BENEFICIARIES OF REEBOK SETTLEMENT

AG **Jay Nixon** announces on **May 4** that Missouri will receive \$163,842 as its share of an \$8 million nationwide antitrust settlement with Reebok, accused of fixing prices on footwear.

On **Nov. 2**, Nixon names the four recipients of Missouri's share: Boys and Girls Clubs of St. Charles County and Greater Kansas City; Girls Inc. of St. Louis; and Show-Me State Games. Nixon, center, congratulates Show-Me Director **Gary Filbert**, left, and Governor's Council on Physical Fitness and Health Director **Tom Vansaghi**.

restitution and penalties of at least \$4,000 for falsely promising consumers he could repair bad credit for a fee.

**July 26:** A temporary restraining order prohibits a Buffalo auto repair shop owner from selling repair services and engines. He allegedly did not honor warranties and falsely billed customers.

## AUGUST

**Aug. 1:** Nixon urges Congress to take action to reduce the number of frivolous lawsuits filed by inmates in the nation's prisons. Nixon was joined by nine other state attorneys general to call for federal legislation that would assist states in fending off frivolous claims.

**Aug. 2:** Governmental Affairs attorneys obtain a consent order and judgment to a constitutional challenge of the revenue laws relating to St. Louis County sales tax for capital improvements.

**Aug. 3:** The Environmental Protection Division and the Department of Natural Resources reach an agreement with Rita Volner of Reynolds County to remove about 4,000 waste tires from her property that adjoins Johnson's Shut-In State Park.

**Aug. 3:** Governmental Affairs attorneys successfully negotiate final approval of a consent decree ending two decades of litigation in a class-action lawsuit against the Department of Mental Health.

**Aug. 7:** The AG's Office starts filing lawsuits against 10 Missouri liquor and convenience stores withholding funds for money orders that bounced when Advantage Money Order Co. did not have adequate funds to cover the money orders. In **October**, the office obtains judgments of \$22,000 against three stores; several other stores settled, paying \$28,000. Consumers also are repaid.

**Aug. 9:** Boothill Buildings owner Rodger Dale Nelms pleads guilty to seven criminal charges of unlawful merchandising practices after he accepted payment to build sheds, but failed to complete them.

**Aug. 9:** Nicholas Miranda of Chesterfield is permanently barred from giving legal advice and drafting legal papers without a license.

**Aug. 9:** ICI Explosives USA will pay \$450,000 in civil penalties to resolve allegations of past water and air pollution violations at its Joplin plant.

**Aug. 11:** A federal district court

denies the habeas corpus petition of Samuel McDonald, sentenced to die for the 1981 capital murder of an off-duty St. Louis police officer.

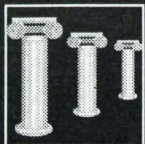
**Aug. 14:** The Litigation Division obtains \$4,416 as reimbursement for the cost of care from inmate Alfred Hannson, serving nine years for kidnapping and armed criminal action.

**Aug. 14:** Consumer attorneys obtain a court order closing State Towing in St. Louis after it allegedly operated without a business license and illegally towed cars.

**Aug. 16:** A temporary restraining order is obtained against Branson vacation promoters Charles Hinkle and Whit Whitsitt, accused of advertising \$99.95 vacation certificates but not delivering the vacation packages as promised. On **Oct. 27**, a preliminary injunction is granted.

**Aug. 16:** Nixon says a new rule by the Federal Trade Commission will give the AG's Office the power to sue out-of-state telemarketers who use fraud to prey on consumers. The rule, which takes effect Jan. 1, 1996, permits state attorneys general to obtain nationwide orders to halt telemarketing scams.





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**Aug. 16:** A new Financial Unit, headed by assistant attorney general **Doug Nelson**, will identify cases throughout the AG's Office that involve possible collections and assets. The unit then will work on collecting monies.

**Aug. 17:** Nixon says he will request a meeting with the St. Louis Board of Education to begin official negotiations to end the St. Louis deseg case.

**Aug. 18:** The Environmental Division is seeking an injunction against James Buster Richards, accused of illegally dumping more than 7,000 waste tires at three sites around Bonne Terre.

**Aug. 18:** The AG's Office sues the developers of a Lake of the Ozarks subdivision for alleged violations of Missouri's Clean Water Law.

**Aug. 18:** The Law Center, a credit-repair business advertising in Springfield, is sued after workers promised they could repair bad credit for an advance fee of \$1,030.

**Aug. 21 & Sept. 8:** Governmental Affairs attorneys obtain disciplinary action against the licenses of a Joplin funeral home and five funeral directors who allowed unlicensed embalming and falsified death certificates. The mortuary will pay about \$25,000 in restitution for fees collected for unlicensed embalming.

**Aug. 23:** Governmental Affairs attorneys successfully prevent an attempt to halt construction of a 1,200-bed prison in Cameron.

**Aug. 30:** Consumer attorneys sue Armstrong Communications of Camdenton for allegedly defrauding consumers who bought satellite dishes or programming services.

**Aug. 30:** Nixon issues a consumer alert, warning senior citizens to beware of people posing as bank or law enforcement officials who ask them to withdraw cash from their bank accounts as part of an investigation.

**Aug. 30:** Nixon says changes in state law that took effect Aug. 28 provide greater protection from domestic violence and make the state's abuse law easier to enforce.

## SEPTEMBER

**Sept. 1:** Litigation attorneys notify 16 inmates that their lawsuits will be targeted under a new law that sanctions prisoners for frivolous filings.

**Sept. 6:** Consumer attorneys obtain a consent injunction against Branson West Chevrolet. The dealer agrees to pay \$60,000 in restitution and penalties after he kept money paid by up to 100 consumers for warranties and insurance policies.

**Sept. 7:** A boat motor salesman is sentenced to four concurrent five-year prison terms after he pleaded guilty to charges brought by a grand jury at the office's request.

**Sept. 7:** Several Texas telemarketers who sent "guaranteed prize" postcards to Missourians are sued. The office alleges the prizes are ploys to entice consumers to buy a \$400 service.

**Sept. 12:** An appeals court affirms the conviction of Arthur Gollaher Jr. of Pike County, who received two consecutive 25-year sentences for the rape and sodomy of a 7-year-old girl left in his care in 1993.

**Sept. 13:** Four felony counts of abuse of a nursing home resident are filed against nurse's aide Holly Hargis, who had worked at Chariton Park Health Care Center in Salisbury. On **Oct. 10**, an additional abuse charge is filed.

**Sept. 13:** Consumer attorneys file for injunctions against two Texas phone companies accused of "slamming" — the unauthorized switching of long-distance carriers.

**Sept. 14:** The AG's Office announces opposition to a motion by the American Society of Composers, Authors and Publishers for a court order to withhold music in its repertory from all retail establishments, restaurants, inns, bars, sporting events and entertainment facilities in Missouri. In a **Dec. 18** letter to a federal judge, Nixon says Missouri's new law that requires ASCAP and similar societies to file a list of their licensed compositions with the state does not conflict with federal law. Nixon asks the judge to allow his office to intervene.



**Sept. 15:** Consumer attorneys sue U.S. Auto Brokerage in Kansas City for illegal subleasing and S&H Auto Sales in Jefferson City for merchandising fraud.

**Sept. 15:** Robert Crowell, who did business as ARC Construction in Springfield, is sued for allegedly failing to complete home repair services after receiving payment.

**Sept. 20:** Limestone Premix of Nixa pleads guilty to criminal charges it did not provide workers' comp insurance for workers. It pays a \$1,500 fine and is given a \$25,000 suspended penalty and placed on two years' probation.

**Sept. 20:** At Nixon's request, the Missouri Supreme Court agrees to hear the cases of two drunken drivers who used the "John Denver defense" at trial to avoid both a DWI conviction and suspended drivers license for the same conduct. The court will determine whether a DWI conviction and suspended license for the same conduct constitutes double jeopardy.

**Sept. 20:** The Criminal Division will assist the Carroll County prosecutor with the trial of Joseph Howe, charged with first-degree murder and armed criminal action in the 1995 shooting death of Riley Hasty.

**Sept. 20:** Telebrands Corp. of New Jersey and its president are sued for selling and falsely advertising hearing aids not approved by the Food and Drug Administration.

**Sept. 26:** The AG's Office sues the owner of a public drinking water system that serves a subdivision in Franklin County for alleged violations of the Safe Drinking Water Act.

**Sept. 26:** In a case handled by the AG's Office, a state court rejects the appeal of Vito Rallo of Lake St. Louis, convicted of arson for blowing up his home in 1990.



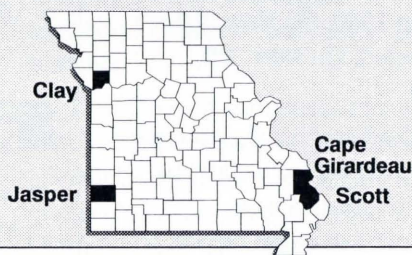
## OPERATION LAM SCAM

The AG's Office, in conjunction with four sheriff's offices, cleared 561 warrants during three sting operations in 1995:

**March 17:** A five-day sting with the Clay County sheriff ends in the arrest of 29 fugitives and clearance of 148 warrants.

**July 21:** A weeklong sting in Jasper County results in clearing 253 warrants and arresting 174 people.

**Sept. 27:** A three-day sting by sheriffs in Cape and Scott counties ends with the arrest of 101 people and collection of more than \$226,000 in bail.



**Sept. 26:** Consumer attorneys receive a temporary restraining order against Town and Country Design. The Nixa cabinet shop allegedly failed to complete remodeling work or make refunds.

**Sept. 27:** Nixon joins U.S. Sens. Bob Dole and Harry Reid and others at a Washington, D.C., press conference to introduce proposed federal legislation designed to reduce frivolous inmate lawsuit filings.

**Sept. 27:** An appeals court rules a police officer who pulled over a drunken driver he suspected had a revoked license had probable cause to stop the driver. The appeal to throw out the breath results was deemed moot.

**Sept. 28:** An appeals court upholds

the murder conviction of Donald Simpson who strangled a neighbor, J.D. Masters, with a towel in 1989 in Joplin.

**Sept. 28:** The Consumer Division files suit requesting a permanent injunction and restitution from two St. Louis companies for using deceptive practices to recruit associates in an equipment-lease brokerage business.

**Sept. 28:** Leslie Potts of Springfield is taken into custody after the AG's Office filed three criminal counts of securities fraud against him for allegedly lying to investors and using their investments for himself.

**Sept. 29:** Nixon issues a statement expressing concern that Indian gaming introduces land-based gaming into the state and that it is not required to operate under the same regulations as state-licensed riverboat gaming.

## OCTOBER

**Oct. 2:** The U.S. Supreme Court denies the petitions of three inmates on death row: Anthony Larette, Robert O'Neal and Robert Sidebottom.

**Oct. 4:** An appeals court upholds the capital murder conviction of Richard Nyhuis, sentenced to life for the 1983 murder of his wife.

**Oct. 4:** Supreme Adventures of Kansas City agrees to pay \$500 to the Merchandising Practices Revolving Fund and \$1,000 to the restitution fund to reimburse consumers unable to take vacations in Branson before the company folded and did not make refunds.

**Oct. 10:** The AG's Office will assist Camden County in prosecuting





YEAR-END  
REVIEW

# YEAR-END REVIEW

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Marvin Chaney and Jess Rush, charged separately with first-degree murder and kidnapping of Macks Creek store clerk Trudy Darby in 1991.

**Oct. 11:** Consumer attorneys sue Branson Adventures, Vacation Outfitters, Branson Promotions and Marketing Americana after they allegedly violated consumer fraud laws. More than 750 consumers complained they bought Branson vacation certificates but did not receive promised lodging, tickets or discounts, or refunds.

**Oct. 11:** Nixon says he will oppose any negotiated settlement in the St. Louis or Kansas City desegregation cases that would require the state to replace deseg money with permanent funding.

**Oct. 12:** The Missouri Supreme Court sets execution dates for Robert Sidebottom, who beat his grandmother to death in 1985, and Anthony Larette, who murdered a St. Charles teen-ager in 1980. On **Nov. 15**, Sidebottom is executed. On **Nov. 29**, Larette is executed.

**Oct. 13:** A Rhode Island credit-repair service that allegedly promised advice for \$99 to consumers on how to create a new identification to avoid bad credit reports is ordered to stop doing business in Missouri.

**Oct. 16:** The AG's Office obtains a temporary restraining order freezing the funds of Allied Housing Group, a St. Louis nonprofit corporation that allegedly failed to provide low-cost housing for people who paid as much as \$7,900.

**Oct. 17:** Governmental Affairs attorneys successfully defend the state's limited liability statute in a tort action against the Highway and Transportation Department. The court upholds the \$100,000 liability limit.

**Oct. 19:** A judge freezes the assets of Sheila Ann Hall of Forsyth after she failed to refund deposits to tour companies for Branson lodging, tickets and dinner reservations after her business closed.

**Oct. 19:** Voss Oil of Cuba, accused of selling motor fuel below cost, will pay \$12,000 to the state and comply with the state Motor Fuel Marketing Act in its pricing policies.

**Oct. 25:** Two large health-care companies agree to pay Missouri \$115,000 in a multistate agreement. The states contended that pharmacists of Medco Containment Services had improperly promoted Merck & Co. drugs to physicians without disclosing that Merck owns Medco.

**Oct. 27:** In filing a lawsuit, Nixon says as many as 20,000 customers could receive prepaid long-distance calling cards worth \$670,000 if a settlement is approved with United Telephone. United is accused of violating antitrust and consumer laws in marketing a residential maintenance plan. On **Nov. 15**, a judge sets a Feb. 8, 1996, hearing date for giving final approval.

**Oct. 27:** The Missouri Supreme Court sets an execution date for Robert O'Neal, convicted of a racially motivated murder of an inmate. On **Dec. 4** and **Dec. 5**, the 8th Circuit and U.S. Supreme Court deny a petition for a stay of execution. On **Dec. 6**, he is executed.

## NOVEMBER

**Nov. 1:** Nixon asks board members of the Missouri Consolidated Health Care Plan to reopen enrollment for mid-Missouri state employees whose choice of health plans may have been affected by incomplete and conflicting information made available shortly before the enrollment deadline.

**Nov. 3:** In a case prosecuted by the AG's Office, a judge sentences a Nodaway County farmer to life in prison without parole. William Taylor killed his wife by rigging a combine to run over her.

**Nov. 3:** The AG's Office is named special prosecutor in St. Francois County for the first-degree murder trials of Willie Rousan and his son Brent. They are accused of killing a St. Francois County farm couple in 1993.

**Nov. 4:** Nixon calls for new laws to protect students and teachers from violence in the classrooms in a speech to the Missouri School Board Association.

**Nov. 14:** Orkin Exterminating Co. will reinspect thousands of Missouri homes and reapply termite treatment where needed as part of a settlement worth an estimated \$7 million.





## SENIOR STING PARTICIPANTS

At a **Dec. 18** news conference, AG **Jay Nixon** announces Senior Sting '95, a statewide undercover effort involving more than 800 senior citizens to combat fraud. The volunteers, including **Ada Kneff** of Arnold, collected mailed solicitations and logged phone sales pitches, which will be used by the AG's Office to take legal action against fraudulent marketers.

Organized by the AG's Office, the project was conducted jointly with AARP, Missouri Retired Teachers Association and Missouri Association of Family and Community Education of which Kneff is a member.

**Nov. 15:** Felony charges of telemarketing fraud are filed against two men arrested in California after an FBI raid. The men are accused of repeatedly telephoning a Missouri senior citizen, trying to persuade her to send money.

**Nov. 15:** The Litigation Division obtains \$4,932 as reimbursement for her prison stay from Daphne Brandy, who was released after serving time for passing bad checks and stealing.

**Nov. 21:** The AG's Office files an appeal with the Department of Interior seeking access to any documents pertaining to the Eastern Shawnee tribe's application to have Missouri land placed in trust for Indian gaming.

**Nov. 27:** An appeals court upholds the conviction and sentence of a Pemiscot County man, sentenced to life in prison without parole for the shooting death of a Hayti woman in 1992.

**Nov. 30:** In stops in Franklin, St. Francois and Crawford counties, Nixon announces support for measures to better control violence in classrooms.

## DECEMBER

**Dec. 5:** A state appeals court upholds the conviction of Warren Beghtel, who robbed a Sedalia bank twice. The AG's Office had argued in support of Beghtel's conviction and sentence.

**Dec. 7:** AG Nixon announces that a statewide crackdown on fraudulent telemarketers already has resulted in criminal charges against three California men who allegedly targeted Missouri seniors.

**Dec. 11:** A St. Louis man who gave a false Social Security number and lied about his medical history to fraudulently collect workers' comp benefits is ordered to spend five days in jail. This is the first time a court has imposed jail time under the 1993 revised workers' comp law.

**Dec. 11:** Following a jury's recommendation, Mark Ebright of Ohio is sentenced to life in prison for the 1994 shooting death of Maries County Sheriff Roy Bassett. Criminal attorney **Bob Ahsens** and Nixon served as special prosecutors during the October trial.

**Dec. 12:** Following an investigation by the Medicaid Fraud Control Unit, Springfield nurse's aide Roy Rogers is arrested and charged with abusing a nursing home resident.

**Dec. 14:** Nixon and St. Louis County Executive Buzz Westfall announce that a plumbing business that employed unlicensed workers will reinspect work for 95 customers and pay \$40,000 to the county and \$40,000 to the state.

**Dec. 15:** The AG's Office obtains a restraining order freezing assets of a St. Joseph telemarketer, accused of bilking senior citizens out of hundreds of thousands of dollars.

**Dec. 20:** A multistate agreement is reached with the American Plastics Council to prevent misleading claims about the environmental benefits of plastics.

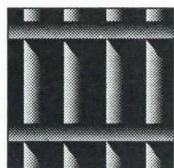
**Dec. 22:** An unsuccessful candidate for Lincoln County prosecutor pleads guilty to exceeding campaign contribution and spending limits during the 1994 race.

**Dec. 29:** The AG's Office takes legal action to prevent wife-murderer Pete Grass from being released from a state mental hospital for part of the New Year's holiday weekend. Grass was found not guilty by reason of insanity.

**Dec. 29:** Operators of Pais Counseling Center in Olivette plead guilty to mail and Medicaid fraud. The AG's Office investigated.



The **Criminal Division** represents the state in every felony case appealed



## OVERVIEW

to the Missouri Supreme Court or Missouri Court of Appeals, or reviewed by the U.S. Supreme Court. Criminal Division attorneys also assist local prosecuting attorneys in serious or difficult trials and grand jury proceedings.

## SPECIAL PROSECUTIONS

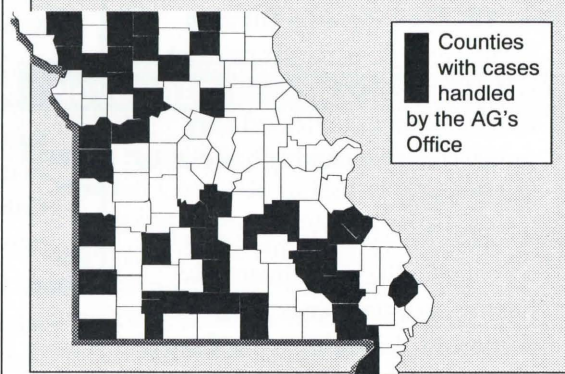
## State attorneys assist counties

Special prosecutors in the Criminal Division obtained 16 murder convictions, including one death sentence and seven life imprisonments without parole. Among the cases criminal attorneys prosecuted:

- **Richard Clay** was sentenced to die after a jury found him guilty of the shooting death of a New Madrid County man. The victim's wife, Stacy Martindale, was found guilty of second-degree murder and was given a 15-year sentence.
- A Franklin County jury convicted **Mark Ebright** of first-degree murder in the 1994 shooting death of Maries County Sheriff Roy Bassett and gave him a life sentence without parole. Bassett was killed while assisting a highway patrol trooper with a traffic accident. Ebright's accomplice was killed by the trooper during the shootout.
- A Nodaway County farmer was sentenced to life without parole for the murder of his wife. A jury convicted **William Taylor** of intentionally rigging a combine that ran over his wife as she tried to retrieve a dead cat Taylor had placed under the combine.
- Life sentences without parole were given to **Sheena Eastburn** and **Terry Banks** in McDonald County in connection with the shooting death of Eastburn's husband. Matt Myers, an accomplice who pleaded guilty to other charges, was given a 67-year sentence.
- **Tommy Lee Jordan** was convicted by a Shannon County jury of first-degree

## Helping counties prosecute

Criminal attorneys worked as special prosecutors in one-third of the counties and St. Louis City. The prosecutions involved more than 65 individuals charged with crimes such as murder (more than 30), rape, stealing and kidnapping.



murder and armed criminal action in connection with the murder of his wife's ex-husband in 1994. He was sentenced to life in prison without parole, plus 25 years.

- A jury convicted **Linda Lou Ealey** of first-degree murder and sentenced her to life in prison without parole after she poisoned an elderly woman with a prescription drug. To take the Caldwell County woman's money, Ealey rented her an apartment and then started slipping her drugs.
- **Michael James Holman** was convicted by a Daviess County jury and sentenced to life without parole for the shooting death of William Stufflebean. He also received a life sentence for armed criminal action.



# Sting operations clear 561 warrants

Attorney General **Jay Nixon** conducted three undercover sting operations in conjunction with four sheriffs.

The stings, a part of the continuing Operation Lam Scam, were held in Clay, Jasper and Cape Girardeau counties. The Cape sting was conducted jointly with Scott County's sheriff.

The undercover stings bagged 304 persons wanted by county authorities on a variety of charges from bad checks to drug dealing to rape and cleared 561 warrants.

In Operation Lam Scam, the AG's Office sent a letter to fugitives informing them they were eligible for cash awards as the result of a class-action consumer lawsuit brought by the office against a sweepstakes company.

The letter instructed recipients to contact "Chris Carter," director of the Missouri Department of Consumer Services. Both the name and department are fictitious.

Temporary claims offices were set up in North Kansas City, Joplin and Cape Girardeau with sheriff's deputies staffing the reception area and making arrests in an adjoining room.



## OPERATION LAM SCAM

The AG's Office, in conjunction with four sheriff's offices, cleared 561 warrants during three sting operations in 1995.



	Arrests	Warrants	Bond posted
Clay	29	148	\$62,237
Jasper	174	253	170,000
Cape Girardeau and Scott	101	160	226,464

## Criminal attorneys

*obtained a conviction on five counts of child abuse and two counts of endangering the welfare of a child against a Buffalo tanning salon owner. David Paro admitted he used a hidden camera to videotape minor girls as they used his tanning booth and the tapes were used for sexual gratification.*

## Nixon praises tougher juvenile, domestic violence laws

Efforts by Attorney General **Nixon** to strengthen state

juvenile justice laws were successful in 1995 with the passage of sweeping legislative changes.

Nixon said the tougher laws instill accountability in a set of laws that hadn't changed significantly in almost 40 years.

Now, more information from a juvenile's record can be provided to law enforcement and school officials.

Also, a court can impose a juvenile disposition for a serious offender and simultaneously impose an

### JUVENILE JUSTICE

adult criminal sentence. Nixon praised the new

laws but called for additional legislative changes in 1996 to help protect students and teachers from classroom violence.

He called for mandatory notification to schools of juveniles accused of a serious crime and mandatory transfer of discipline records from one school district to another.

He also supported laws that would mandate suspension and expulsion from one district be enforced statewide, preventing a student from enrolling in another district.

With the active support of **Nixon**,

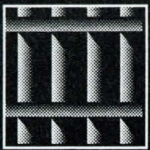
the legislature made several changes to the state Adult Abuse Act to provide greater protection from domestic violence.

State courts now can issue adult protection orders not only for Missouri residents, but for any victim abused or threatened within the state.

Missouri courts and law enforcement officials also now can honor protective orders from other states.

### DOMESTIC VIOLENCE





## CRIMINAL DIVISION

### IN THE NEWS

State's attorney  
general wants  
gun-free zones  
near schools

Attorney general seeks  
tough juvenile crime laws

JEFFERSON CITY—Attorney  
General Jay Nixon recently proposed  
sweeping changes in Missouri's  
juvenile laws and...

"Changes in Missouri..."  
be the...

## More than 156 arrested in 'Lam Scam' sting

By RANDEE KAISER  
Carthage Press Staff Writer

He said a sting operation is bet-  
ter than the alternative.  
"We could literally go and knock  
every door to get them."



## Nixon stresses support for crime victims' rights

■ The attorney general  
said Cape Girardeau's  
efforts are  
"unmatched" for those  
who are affected by  
criminal activity.

By Chris Rimel  
Southeast Missourian

Attorney General Jay Nixon said  
during a visit Thursday in Cape  
Girardeau.

Nixon is mak-  
ing a statewide  
tour during  
National Crime  
Victims' Week  
to stress his  
support of  
those rights.

C a p e



him of the lack of services for  
crime victims and their families in  
Southeast Missouri outside of  
Cape Girardeau. They called the  
situation appalling but said a  
framework is in place to help.

A 2-year-old state law gives vic-  
tims of dangerous felonies rights  
concerning notification, court  
appearances and input into the  
criminal justice system.

Victim advocacy in Cape  
Girardeau has been in place since

with victims families.

Boyd said some counties "talk  
about victim's rights, but they

## Sting nets capture of 101 people

bers can be  
call about the crime.

### Nixon calls for stronger laws

Saying some death row inmates have  
made a mockery of federal  
law, **Nixon** pushed for  
habeas reform at the federal  
level. He released a list of  
15 inmates who have successfully abused the  
habeas petition process and delayed their  
death sentences by almost a decade.

He urged U.S. Sens. Christopher Bond and  
John Ashcroft to support legislation that  
would place a time limit on filing federal  
habeas actions as well as a time limit for  
judicial rulings on habeas petitions.

### HABEAS REFORM

### Executions carried out

Six convicted murderers were executed:

- **Emitt Foster:** For a  
1983 murder in St. Louis  
County.
- **Larry Griffin:** For a  
1980 drive-by shooting in St. Louis.
- **Robert Murray:** For the 1984 killing of  
two St. Louis taxi drivers.
- **Robert Sidebottom:** For killing his  
grandmother in Independence in 1985.
- **Anthony LaRette:** For the stabbing death  
of a teen-age girl in St. Charles in 1980.
- **Robert O'Neal:** For the racially motivated  
stabbing of an inmate at a prison in 1984.

### CAPITAL CASES

### AG's Office successful in appeals

Criminal attorneys successfully defended  
the state in federal courts  
against inmates' appeals.

The death penalty of  
Ralph Feltrop was affirmed  
for the 1987 murder of his girlfriend, whose  
throat was slit. He dismembered and  
refrigerated Barbara Roam's body before  
dumping parts in St. Charles and Jefferson  
counties.

Attorneys handled several other cases in  
which the courts denied habeas corpus  
petitions seeking the release of inmates.  
Among the inmates denied and their crimes:

- **Donald Reese:** Convicted of two counts of  
first-degree murder in connection with the  
1986 slayings of four men at a Saline  
County wildlife preserve. He signed a  
written confession to the crime.
- **Richard Dean McMillin:** Convicted in  
Greene County for shooting to death a  
woman he abducted and set on fire.
- **Samuel Lee McDonald:** Sentenced to  
death for killing an off-duty St. Louis  
County police officer in 1981.
- **Eric Schneider:** He and two accom-  
plices invaded the home of two Jefferson  
County teachers and killed them in 1985.

### CRIMINAL APPEALS

1995

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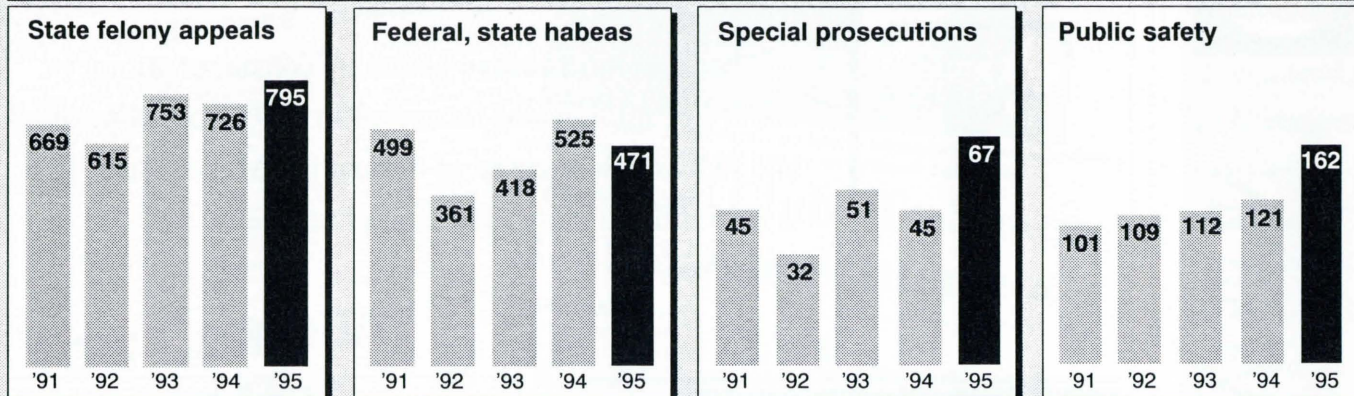


## Cases assigned to the Criminal Division

Criminal attorneys received 1,563 cases, 19 percent more cases than five years ago. The increase includes 68 workers' compensation fraud cases received in 1995.

Legislation was enacted in 1993 authorizing the AG's Office to prosecute workers' comp fraud. In 1994, the office was assigned 20 workers' comp fraud cases.

### CASES ASSIGNED IN 1995 \*



\*Among litigation not included:

- Rule 29.15 appeals consolidated with direct felony appeals
- Transfers of appeals from the state appeals court to the Missouri Supreme Court
- Petitions for a writ of certiorari filed in the U.S. Supreme Court from state or federal rulings
- Appeals from federal habeas corpus petitions before the 8th Circuit Court of Appeals

## WORKERS' COMPENSATION CASES

### The Workers' Compensation Fraud Unit

opened 68 cases in its first year, filing criminal charges in one-third of the cases. By year's end, five criminal convictions had been obtained.

Unit attorneys also negotiated settlements or agreements in 18 other cases.

The unit obtained more than \$108,000 in fines and penalties and nearly \$25,000 in restitution for defrauded individuals. Among the cases:

#### Jail sentence a first

A St. Louis court imposed jail time for the first time in Missouri on a man who fraudulently collected workers' comp benefits. Darrick Jones was jailed for five days and placed on probation for one year. Jones gave a false Social Security number and lied about his medical history to collect the benefits.

#### Insurance representative guilty

A St. Louis County jury found a claims adjuster guilty of four counts of workers' comp fraud for making false statements to a worker in an attempt to deny her benefits. Ruth Barnes attempted to settle the claim at a disability far

below the worker's total disability rating, resulting in reduced insurance payments.

#### Bar owner guilty of noncompliance

A Platte County bar owner pleaded guilty for failing to provide insurance and to notify the Division of Workers' Compensation of an employee injury. The owner was ordered to pay the employee's outstanding medical bills and restitution to the Workers' Comp Fund.

#### Company pays \$10,000 fine

Mirax Chemical Products of St. Louis paid a \$10,000 fine and \$18,856 in restitution to an employee injured on the job while the company was uninsured.

#### Guilty plea to fake robbery

A southwest Missouri woman pleaded guilty to faking a robbery at the convenience store where she worked in order to fraudulently obtain workers' comp benefits. Elsie Page was ordered to repay \$2,000 in restitution, \$2,000 in fines to the workers' comp fund, and was placed on two years of probation.

### Nixon

established a Workers' Compensation Fraud Unit in 1995 to prosecute individuals who fraudulently try to collect workers' comp benefits and businesses that do not carry workers' comp insurance for employees.



The **Consumer Protection Division****OVERVIEW**

represents the state in consumer fraud cases involving antitrust matters, securities fraud and criminal prosecution of businesses that defraud consumers through advertising and sale of products or services. These prosecutions often result in imprisonment, fines and restitution.

**Through aggressive** action by consumer attorneys, about \$10 million was recovered in 1995 from companies and individuals accused of defrauding Missourians. That is \$7.5 million more than monies recovered in the previous year.

**PROTECTING CONSUMERS****Large settlement:****Orkin zapped for \$7 million**

In one of the largest consumer settlements reached by the AG's Office, Orkin Exterminating agreed to reinspect 7,000 Missouri homes and reapply termite treatment where needed as part of an agreement worth an estimated \$7 million.



Orkin, the nation's largest pest control company, also agreed to pay for repairing new termite damage or to reimburse customers for repairs already made.

**Don't mess with Missouri: Division ties up Texas phone companies**

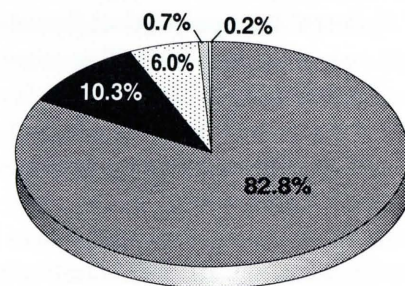
Consumer attorneys filed for injunctions against Nationwide Long Distance and Home Owners Long Distance. The two Texas companies were accused of **slamming** — switching consumers' long-distance carriers without consent.

The companies allegedly distributed contest entry forms that stated, in tiny type, that by signing they were authorizing a change in their service.

Slamming exploded across the state in 1995. The Consumer Protection Hotline received phone calls regarding more than 50 phone companies.

**Consumer recoveries**

Aggressive action by consumer attorneys resulted in nearly \$10 million being recovered from companies and individuals accused of defrauding Missourians. That includes one of the largest consumer settlements obtained by the AG's Office: \$7 million in restitution from Orkin.



- \$8,007,477 in restitution from litigation
- \$1,000,000 in restitution from mediation
- \$574,151 in contributions to Merchandising Practices Revolving Fund, which helps pay for attorney fees and consumer programs
- \$72,000 in contributions to Antitrust Revolving Fund
- \$22,000 in penalties

**TOLL-FREE CONSUMER PROTECTION HOTLINE**

Hotline workers received 30,000 complaints and inquiries.



## IN THE NEWS

### Nixon Sues Evel Knievel's Son

Attorney General Jay Nixon filed suit Tuesday against Kelly Knievel, the son of the former celebrity stuntman Evel Knievel, alleging he defrauded several Missouri thousands of dollars.

In papers filed in

## Nixon Wants To Hang Up On Long-Distance "Slamming"

Missouri Attorney General Jay Nixon filed for strong limits in Federal Communications Commission rules on the practice of "slamming" long-distance carriers. Slamming is a term for the practice of switching a customer's primary long-distance carrier without the customer's knowledge or approval.

Nixon, the Missouri Public Service Commission and the Missouri Office of the Public Counsel filed joint comments with the FCC in Washington

made out to the consumer. By cashing that check, the consumer is authorizing a switch to that carrier but may be doing so without realizing it. Any action made to switch should be done with the clear understanding and consent of the consumer.

Nixon said his office received more than 40 complaints from consumers in 1994 regarding unauthorized changes in primary long-distance carriers. Nationally, the FCC reported more than 4,000 complaints in

terms the letter of agency that the customer signs authorizing the switch is unambiguous and in a type to be easily understood.

Separating the agency from other tonal or inducement are switched which knowledge, the FCC recommends new long-distance responsible for all would have paid

switched Missouri the FCC to that of solicitation omers loyees did not ge of

Missouri Attorney General Jay Nixon announces Thursday that area youth clubs will get part of an antitrust settlement.

## Missouri Clubs To Share Reebok Suit Settlement

By Kristina Sauerwein  
Of the Post-Dispatch Staff  
Reebok International Ltd., charged with fixing shoe prices, will pay Missouri \$163,842 as part of an \$8 million antitrust settlement.

**S**tates must use the money on athletic services for public or nonprofit groups.

## Attorney general warns citizens about bank-examiner scams

JEFFERSON CITY, Mo. -- Attorney General Jay Nixon has issued a warning to elderly Missourians throughout

swindlers in bank-examiner scams. There are several ways to prevent being victimized:

- If the situation seems unusual or if you feel uncomfortable, just hang up or walk away.
- Trust only people you know. Do not trust someone because of their friendly voice or because they appear to be
- Talk to "est faces" personally their victim their mor
- Talk to enforcement large else's su
- Many their cus form wh large am to comm

## Nixon: Watch for tricks with phone service

Missouri consumers should be on alert for phone companies using "missing children" advertisements and other misleading efforts to trick consumers into changing their long-distance service.

## Tow Company Forced Out Of Business

Firm Violated Consumer Laws, Missouri's Attorney General Says

By Bill Smith

Of the Post-Dispatch Staff  
The South County towing company that came under fire last week for towing vehicles without a city license has shut down, Missouri Attorney General Jay Nixon said Monday.

Nixon said that a consent injunction issued in St. Louis Circuit Court permanently bars State Towing, 8001 Gravois Road, and its owner, Vincent Anthony Mancuso, from operating a towing service in Missouri.

Nixon said that evidence uncovered by his office indicated that State Towing has engaged in unfair business practices that are in direct violation of Missouri consumer protection laws.

But in the agreement with the attorney general's office, neither Mancuso nor State Towing admitted to any wrongdoing.

In a telephone interview, Nixon warned that if any of those involved with State Towing attempted to defraud consumers through another towing company "we will be equally

**Drivers had been charged up to \$480 each to reclaim cars after the vehicles had been towed.**

Monday's agreement was announced one week after the Post-Dispatch reported that drivers had been charged up to \$480 each to reclaim cars after the vehicles were towed from a gravel lot near Seven Street and Lafayette Avenue, in St. Louis Farmers Market area.

DeLores and Joseph Sanfilippo owned the lot. They are parent of State Towing.

Nixon said Monday he was seeking civil penalties and restitution from Mancuso and State Towing, as well as from Joseph and Richard L. Stockard.

See TOW

## Nixon Tests Buyout

Will Schnucks Merger Hurt Competition?

By Jerri Stroud  
Of the Post-Dispatch Staff  
Jay Nixon, the Missouri attorney general, is reviewing Schnucks Merger

Kansas immer lar ors. ctims ligation o help of cash g it tion. depos- inves- and

## State acts to freeze telemarketer's assets

News Press Staff Report

Missouri's attorney general moved to freeze the assets of a St. Joseph telemarketing business Friday, alleging the firm bilked senior citizens out of hundreds of thousands of dollars.

Heartland Associates fraudulently promised cars, large cash prizes and even lumps of gold to the people it called, said Attorney General Jay Nixon, who filed the lawsuit in Buchanan County Circuit Court.

It's the second time this month a St. Joseph telemarketing company has been accused of fraudulent practices. On Dec. 6, a federal grand jury indicted 11 people affiliated with Midwest Marketing Concepts Inc., claiming they cheated people out of \$600,000 in a donation for prizes.

In addition to getting a restraining order to tie up the company's assets, the lawsuit seeks restitution for those allegedly defrauded by Heartland Associates, and sequestration and forfeiture of as-

sets seized during a search warrant at the business.

The consumer fraud lawsuit names four individuals the attorney general says took part in the scheme: Terry Williams, Robert Carl Gray, Brenda Armour and Bert Thompson. A search of telephone and city directories turned up none of these people. No phone listing could be found for Heartland Associates.

Mr. Nixon alleged that Mr. Gray and Mr. Thompson, who used to

senior citizens they called that the company had cash and automobiles available to people who sent in money.

Large cash withdrawals were made from Heartland's account in 1995, said Mr. Nixon, but no record exists of any of the money going to senior citizens. The attorney general, in his filing with the Circuit Court, indicated that the company illegally procured money, or perhaps all of the \$600,000 in

checks during 1995, the court records say. One 74-year-old woman wrote checks to Heartland totaling \$18,000. She was promised a lump of gold but never received it.

The calls went out nationwide, according to the lawsuit. There is no indication any St. Joseph area people were taken in by the alleged scam.

Mr. Nixon's lawsuit is for a temporary injunction and Associates in County on

## Orkin agrees to redo shoddy work

Inadequate chemicals to stop termites were used to reap profits, Nixon says.

By Randy Berger  
News Leader

Orkin Exterminating Co. will reinspect approximately 7,000 Missouri homes, including 53 in Springfield and 10 in Branson, as part of a settlement with the Missouri At-

by the Attorney General's Office revealed that Orkin had treated many houses with inadequate amounts of termite chemicals.

Orkin claimed to use a chemical that created an "impenetrable barrier" against termites. The chemical was often applied in a far smaller

or, greatly reducing the protection. "They were representing that they were putting in a chemical (an organophosphate termiteicide) but it was to their benefit not to," Attorney General Jay Nixon said. "It appears to be the equivalent of a corporate decision to make money."

Nixon said Orkin likely bet the cost of refunds to customers who complained would be outweighed by the money saved in using less of the

Efforts to reach Orkin were unsuccessful.

The settlement, which requires Orkin to reinspect, retreat and repair the homes, is expected to cost \$7 million. That makes it one of the largest ever in Missouri, Nixon said.

The settlement is expected to be made final Dec. 13 in St. Louis.

Eligible customers will be notified by mail. Reinspections should begin in early January.

The repairs available through the

settlement will be for homes with basements that were treated by Orkin between Jan. 1, 1987 and May 15, 1993.

Orkin will be required to reapply the treatment where necessary. The company also will repair any new termite damage or reimburse homeowners for repairs already made.

Nixon hopes the settlement will send a message to other pest control businesses. "We're just proud that the consumers are getting what they paid for."



**Consumer attorneys obtained criminal prosecutions against 10 defendants for consumer and securities fraud.**

**They also obtained 26 permanent injunctions and 18 assurances of voluntary compliance prohibiting further violations.**





## CONSUMER PROTECTION DIVISION

### PROTECTING CONSUMERS

#### Knieval scheme crashes

Consumer attorneys sued Kelly Knieval and his Las Vegas telemarketing firm for allegedly swindling senior citizens out of thousands of dollars. Knieval was barred from doing business in Missouri and agreed to pay \$150,000 in consumer restitution to Missouri and eight other states.

The firm was accused of tricking Missourians into buying merchandise before they could receive a car or \$10,000 in cash they supposedly won.

Some consumers were repeatedly solicited or had unauthorized credit-card charges made. Knieval is the son of former motorcycle daredevil Evel Knieval.

#### Large health-care companies pay state \$115,000 in agreement

Two of the world's largest health-care companies paid \$115,000 to Missouri in an agreement that will better protect consumers. Consumer attorneys obtained a multistate settlement involving Medco



Containment Services and its parent company, Merck & Co. Medco pharmacists improperly promoted Merck drugs to physicians without disclosing that Medco owns Merck.

Medco will pay nearly \$2 million to all affected states. Missouri's share will cover the costs of the investigation, attorney fees and consumer education.

#### Consumer Division secures fraud convictions

Consumer attorneys successfully prosecuted 10 swindlers for fraud. The prosecutions included these investment frauds:

### SECURITIES FRAUD

- A Gladstone woman pleaded guilty to six felony counts of securities fraud for misleading investors and using money intended for real estate investments for her own use. **Rebecca Broyles** solicited investors between 1988 and 1993 by offering and selling corporate notes issued by the Pearl Corp. The woman was sentenced to eight years in prison.
- A Springfield man was sentenced to seven years' imprisonment for six felony charges involving forgery, stealing, securities fraud and unlawful merchandising practices. **Stephen Ray Hunt** diverted consumers' investment money for his use. The former investment broker convinced clients to invest in securities, annuities, certificates of deposit or Individual Retirement Accounts.
- A Seneca man was convicted of securities fraud. **Gregory Reber** was sentenced to 15 years in prison for selling investments in electrical contracts. Actually, the electrical contracts did not exist and Reber operated a Ponzi scheme, defrauding new investors to pay off previous victims.



## PROTECTING CONSUMERS

### AG's Office comes to aid of Branson vacationers

- Consumer attorneys obtained a temporary restraining order against Branson vacation promoters Charles Hinkle and Whit Whitsitt. They allegedly advertised \$99.95 vacation certificates, but didn't deliver.
- Supreme Adventures of Kansas City agreed to pay \$500 to the Merchandising Practices Revolving Fund and \$1,000 to the restitution fund to reimburse consumers. Consumers were unable to vacation in Branson before the company folded and failed to make refunds.
- Consumer attorneys sued Branson Adventures, Vacation Outfitters, Branson Promotions and Marketing Americana after they allegedly violated consumer fraud laws. More than 750 consumers who bought Branson vacation certificates complained they didn't receive promised lodging, tickets, discounts or refunds.

### Chevy dealer pays \$60,000

Consumer attorneys obtained a consent injunction against Branson West Chevrolet. The dealer agreed to pay \$60,000 in restitution and penalties after he kept money paid by up to 100 consumers for warranties and insurance policies.

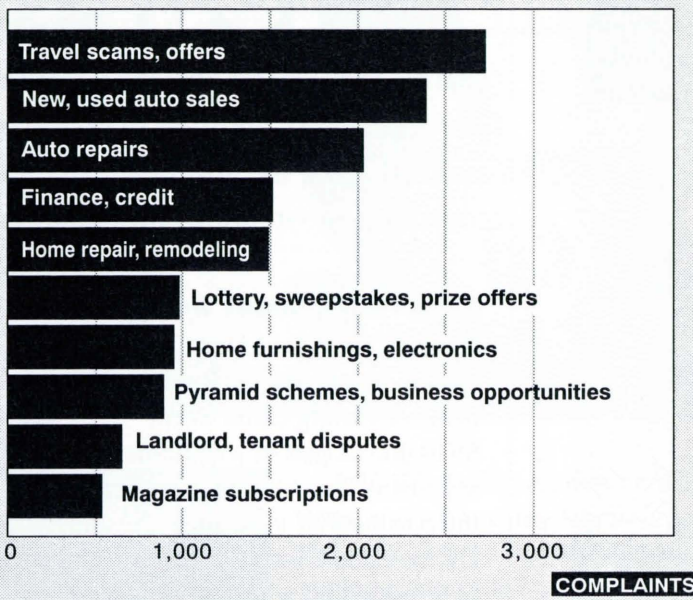
### Music group now in sync with state

A settlement between the AG's Office and the American Society of Composers, Authors and Publishers will ensure that the association continues to license ASCAP songs to Missouri businesses while bringing its practices into compliance with a new state law regulating performing rights societies. In response to the new law, ASCAP initially asked a federal court to allow the association to withhold its licensed music from Missouri establishments including theaters, restaurants and bars. Later, Nixon sought to intervene in the court proceeding, citing the state's direct interest in the controversy.



## Top 10 complaints, inquiries

Complaints about travel scams and offers topped the list of nearly 30,000 complaints and inquiries made to the AG's Office in 1995. The top 10 are:

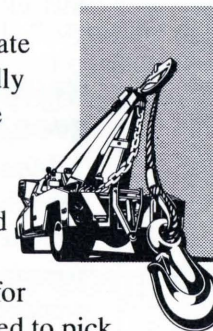


### Nixon shuts State Towing for good

Consumer attorneys obtained a court order permanently closing State Towing of St. Louis after it allegedly operated without a business license and illegally towed cars.

Victims claimed the company illegally towed cars from unmarked lots, misrepresented towing fee amounts and charged storage fees for times when owners were not allowed to pick up their cars.

They also claimed State Towing charged unadvertised fees, such as labor and mileage, that pushed the price above the advertised \$300-plus storage fee.







CONSUMER  
PROTECTION  
DIVISION

## AGO committed to fair competition

Through vigorous enforcement of state and federal antitrust laws, the AG's Office seeks to ensure Missouri consumers and businesses enjoy the lower prices, higher quality, and greater selection that result from free and open competition in the marketplace. In addition to his authority under Missouri law to enforce state antitrust laws, the attorney general has authority to file actions in federal court to stop violations of federal antitrust laws.

### ANTITRUST ACTION

#### Phone agreement worth \$670,000

About 20,000 United Telephone Co. customers received prepaid long-distance calling cards worth \$670,000 as part of a settlement after consumer attorneys accused the company of violating antitrust and consumer laws in marketing of a residential wire maintenance plan.



United began marketing RepairCare for an additional monthly charge, but if customers failed to inform the company they did not want RepairCare, the charge was added to their bills anyway.

#### Reebok's \$163,908 settlement goes to nonprofit youth groups

Missouri received \$163,908 as part of a nationwide \$8 million settlement with Reebok. The shoe maker was accused of conspiring with retailers to sell Reebok products at fixed prices. Show-Me-State Game, Boy and Girls Clubs of St. Charles County and of Greater Kansas City, and Girls Inc. of St. Louis were selected to receive Missouri's share. The money will be used to improve or provide athletic facilities, equipment or services.

#### Supermarket gets rid of stores

An agreement obtained by the AG's Office and the Federal Trade Commission required the largest supermarket chain in the St. Louis area to divest 24 designated supermarkets to help preserve competition.

The AGO and the FTC reached the agreement with Schnuck Markets Inc. by filing suit in federal court and demonstrating a threat to competition.

#### Nixon team Rams through move

In response to the NFL's threat of preventing the Rams football team from relocating to St. Louis, Attorney General Nixon announced he would file an anti-trust lawsuit against the league to stop a classic restraint of trade. The AG's Office drafted court papers arguing interfering with the move would violate the state's antitrust law and the Merchandising Practices Act. Shortly before papers were filed, the NFL teams approved the move in time for the 1995 season.

#### Hospital, partnership ordered to stop unfair practices

Attorneys obtained a court order preventing Doctors Regional Medical Center and partners of Kneibert Clinic in Poplar Bluff from forcing or unfairly influencing patients to buy prescription drug plans and other medical equipment and services from businesses owned by the hospital or partnership. The order also prevents nursing homes from being forced to use the hospital's ancillary medical services in return for referrals to the nursing homes. The defendants will pay \$300,000 to the state and two nonprofit health-care organizations.



# AG's Office targets telemarketers

## 3 charged in phone fraud crackdown

**A STATEWIDE** crackdown on fraudulent telemarketers in November already has resulted in criminal charges filed against three California men who allegedly targeted seniors.

Missouri is one of 16 states working with the Department of Justice and the Federal Trade Commission in compiling a national tape repository that will contain thousands of undercover recordings of telemarketers who target seniors.

Cooperating seniors are allowing the Consumer Protection Division to use tapes of conversations of fraudulent telemarketing pitches they receive. The taped evidence allows Missouri investigators to alert the FBI and other law enforcement officials to expedite raids on boiler rooms throughout the country.

The tapes played an important role in consumer attorneys bringing charges against two California men arrested after an FBI boiler room raid.

A consumer investigator had been answering and taping telemarketing calls switched from a senior citizen's home in Columbia.

The pair allegedly tried to convince the senior (played by the investigator) that she had won an expensive prize and could claim it for an "acquisition fee" of \$992.

Consumer attorneys filed a criminal charge against another California man who allegedly convinced a Cape Girardeau woman to send him \$1,500 to pay for taxes on a \$100,000 sweepstakes prize the woman was told she had won.



**ABOVE:** During a news conference, Attorney General **Jay Nixon** praises the work of three representatives of senior groups that helped coordinate the Senior Sting. They are **Rita Jacobs** (left), Missouri Association of Family and Community Education; **George Cunningham**, AARP; and **Helen Laux**, Missouri Retired Teachers Association.



**LEFT:** Association of Family and Community Education volunteers log mail solicitations at a sting site in Carthage.

## Senior Sting organized to combat fraud

**SENIOR CITIZENS** and community volunteers throughout Missouri joined the AG's Office to combat telemarketing fraud aimed at seniors.

Organized by the Consumer Protection Division, Senior Sting '95 is a statewide, undercover operation involving more than 800 seniors.

Volunteers collected mailed solicitations and logged phone



itches throughout the month of November. The AG's Office will use the information to take legal action against fraudulent marketers.

The project is a joint effort of the Missouri Association of Family and Community Education, Missouri Retired Teachers Association and American Association of Retired Persons.



The **Environmental Protection Division** was created by Attorney General



## OVERVIEW

Jay Nixon in 1993 to provide better protection for Missouri's natural resources by filing lawsuits to stop pollution of the state's air, water and soil. The division's aggressive efforts have bolstered compliance with state environmental laws and have resulted in significant penalties for those who break these laws.

**In 1995** the division won in court or settled more than 250 cases. This success translated into more than \$2 million in civil penalties, response costs, damages and restitution payments.

## TIRE DUMPS

Attorney General **Jay Nixon** continues to take aggressive action against operators of illegal waste tire dumps. State law requires all waste tire sites with 500 or more tires to obtain permits from the Missouri Department of Natural Resources and comply with its regulations.

### Company will clean up old dump

The Big River Land Co. agreed to clean up a waste tire dump it inherited when it bought property in Washington County on which 200,000 tires had been dumped.

The tires were deposited on the property by Marty Nickelson, who already had been found in contempt of court for failing to comply with previous court orders to clean up tires at other sites.

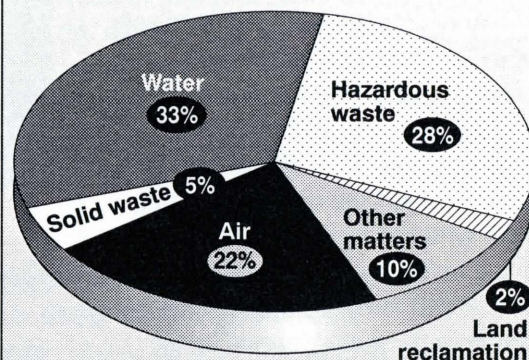
Nickelson is under a court order to clean up a site near Bonne Terre that contains an estimated 500,000 to 1 million waste tires.

### Injunction sought

Environmental attorneys went to court seeking an injunction against James Buster Richards, accused of dumping more than 7,000 waste tires at three sites around Bonne Terre without a permit.

## Environmental costs

The Environmental Protection Division obtained more than \$2 million from reimbursement, restitution, penalties, damages and bankruptcy recoveries. One-third of the monies came from cases involving clean water issues.



### MONIES OBTAINED

Water	\$658,983	Hazardous waste	\$568,741
Air	427,029	Land reclamation	44,601
Solid waste	100,814	Other matters	201,713

Cases dismissed or settled favorably:

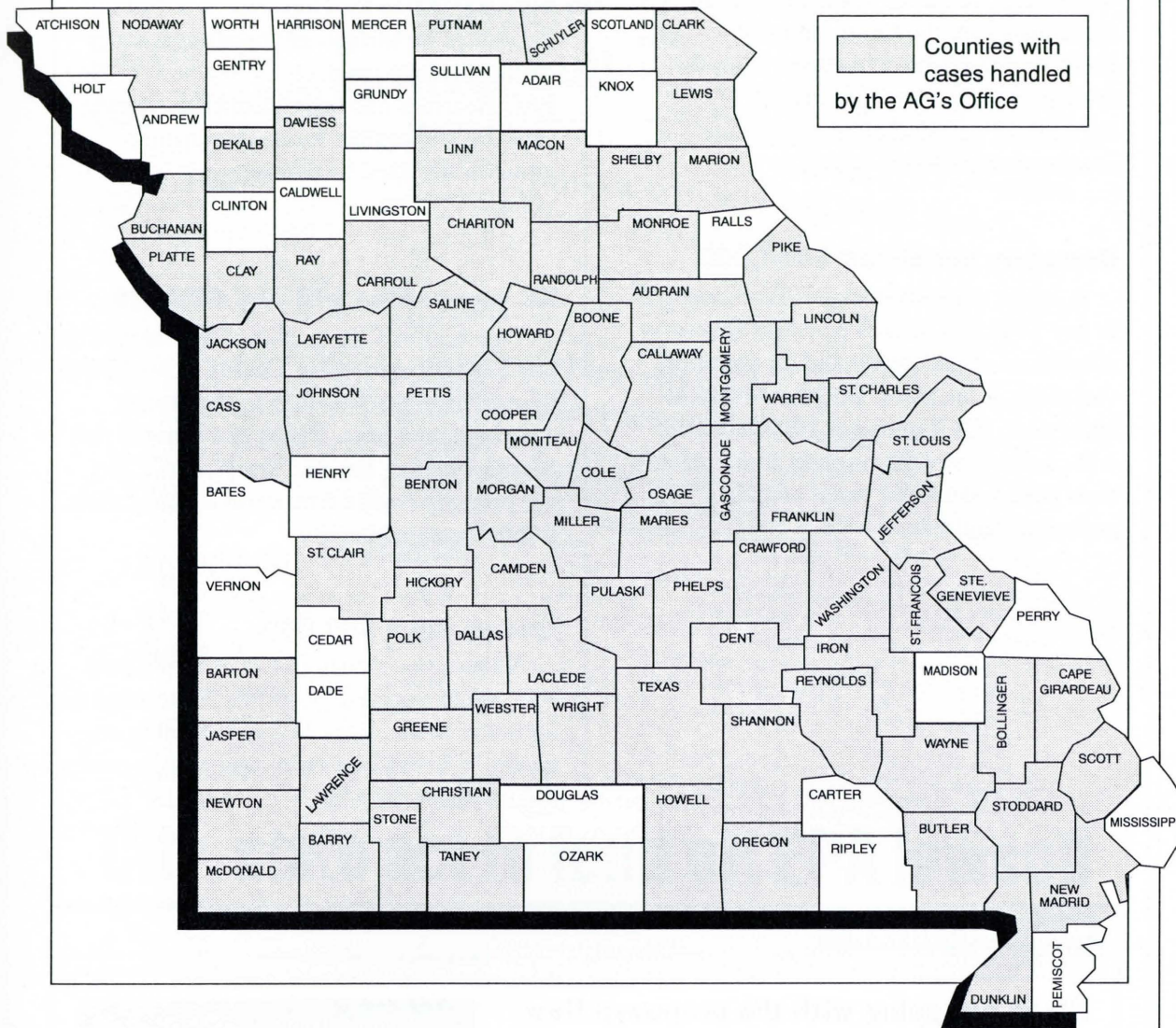
**250**



# Protecting Missouri's environment

The Environmental Protection Division handled cases in 85 of the 114 counties involving issues such as clean air and water,

hazardous and solid waste, underground storage tanks, public drinking water and land reclamation.



**A Financial Unit** has been created to pursue possible collections in cases throughout the office involving collections and assets.

## TIRE DUMPS

### Bootheel operators sued

Environmental attorneys sued R.V. and Mavis Wilson for operating two Bootheel tire dumps without a permit. The dumps contain about 15,000 tires. A circuit judge issued a permanent injunction ordering the couple to submit a plan to remove the tires.

### Owner will rid property of tires

A tire dump near scenic Johnson's Shut-In State Park in Reynolds County will be cleaned up under terms of an agreement with the AG's Office. Rita Volner of Lesterville agreed to remove the 4,000 waste tires on her property adjacent to the park.





ENVIRONMENTAL  
PROTECTION  
DIVISION

## POLLUTION SETTLEMENTS

### Springfield will spend \$17 million

The city of Springfield will spend \$17 million to correct problems with its wastewater treatment system under an agreement with the Environmental Protection Division. Overflows from the system would pollute area creeks. Springfield will study and rehabilitate sewers over a 12-year period.

### Company penalized \$450,000

A Joplin explosives manufacturer agreed to pay \$450,000 in civil penalties to resolve allegations of past water and air pollution violations at the plant. Under the consent agreement, ICI Explosives USA Inc. also will complete several projects at the plant to meet state and federal water and air pollution standards.

### FAG Bearings bears \$400,000 installation costs

Another Joplin-area company agreed to pay \$400,000 to the Department of Natural Resources for the cost of installing a water system to serve residents of Saginaw Village. FAG Bearings had been identified as being partially responsible for contaminating groundwater used by private wells in the village.

### KC companies will pay \$28,000

Two Kansas City manufacturers agreed to pay \$28,000 to the Clay County School Fund to resolve allegations they violated state environmental laws. Nixon had charged that Master Pitching Inc. and Durastill Inc. did not properly handle hazardous waste at their jointly operated facility.

### Quarry pays \$30,000

A limestone quarry in Clay County paid \$30,000 to resolve complaints it exceeded air emission limits. Hunt Midwest Mining also agreed to install control measures designed to reduce dust emissions.

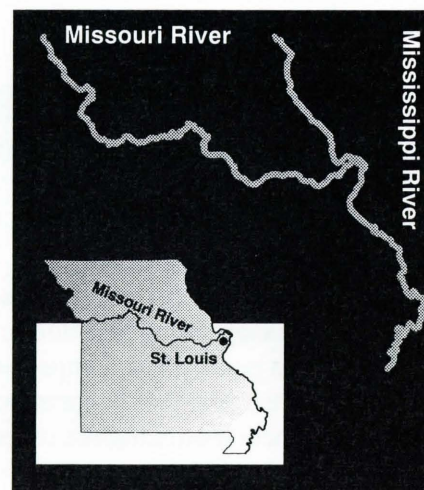
## MISSOURI RIVER

### Nixon not going with the proposed flow

Nixon continued to press for Missouri interests in the ongoing battle with upriver states over the flow of the Missouri River.

Nixon called on the U.S. Army Corps of Engineers to abandon the proposed preferred alternative plan for the river. The plan calls for increased water flow in the Missouri River in the spring and a reduced flow in the fall.

He also called for Tennessee, Illinois and other states outside the Missouri River basin to have a voice on the management plan. He said the river's flow has a profound effect on all the people who live along the Mississippi River and its tributaries.





# Agreement To Result In Clean-Up Of 200,000 Tires

Jefferson City, Mo. - A St. Louis County business will remove approximately 200,000 tires from property, as an agreement to result in a prompt manner," Nixon said. "Big River should be commended for acting in such a responsible manner."

## State lays groundwork for Missouri River suit

First of two parts

By CURT ANDERSON  
Associated Press Writer

WASHINGTON — The state of Missouri is laying the groundwork for a legal challenge to proposed changes in the Missouri River that are intended to benefit the endangered pallid sturgeon.

Using Freedom of Information requests, the state obtained documents in December from the Interior Department concerning the genetics of the fish and just how proposed changes in Missouri River flows are supposed to help it recover.

"We're obviously looking to get a successful record," said Miss.

We hope they will come back to the primary role of a transportation ch

The U.S. Army (neers has proposed way water is released upstream dams, a of the Missouri F closely mimics movements.

### Change would a

That would spring rise, ar flooding, as v flow in the fall the barge na one month.

Biologists would act a improve stu nlan is also

## Agreement To Result In Clean-up Of Tires Near Johnson's Shut-In

A Reynolds County woman will remove approximately 4,000 waste tires from property she owns next to Johnson's Shut-In State Park, Attorney General Jay Nixon

## Attorney General Jay Nixon Sues To Close Two Illegal Bootheel Tire Dumps

Missouri Attorney General Jeremiah W. (Jay) Nixon recently filed an injunction in Dunklin County Circuit Court against the owners of two Bootheel tire dumps for operating

**Firm pays \$325,000**

**in water-pollution suit**  
FAG Bearings Corp. has paid \$325,000 to residents of the Silver Creek Village subdivision to settle a water-pollution lawsuit, officials said.

The company has agreed to pay for part of the construction of a water system in the village that was financed by residents at a cost of \$535,000 three years ago. But attorney fees and expenses will reduce the payout.

"The village has received \$325,000 from the company," said John Hannon, chairman of the vil

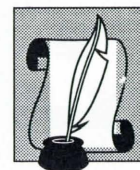
control of storm water drainage at a tire site.

The Wilsons appeared in a preliminary hearing before Judge Stephen R. Sharp of the 35th Judicial Circuit in county on Thursday, June

ing the Wilsons a sentence, the state argued the case. Judge Sharp ons that within 10 days, eed to have an attorney earance or file any doco position of the state's

has a serious problem tire dumps, and we are us in taking aggressive an end to these poten ous sites," Nixon said. ns have been given a opportunities to solve , but legal action seems

ig to Missouri law, a illegal if it is operated appropriate Depart- tural De



## Environmental attorneys

were victorious in more than 95 percent of the cases that went to court in 1995.

# City, state act to fend off EPA lawsuit

Deborah Barnes / News-Leader

The city of Springfield announced Friday that it would pay \$138,500 in fines and spend \$17.6 million to up

city for polluting Wilson's Creek and the James River in the late 1980s and early 1990s.

The Environmental Protection Agency and Justice Department had

would be filed in U.S. District Court. "With the deadline coming up, it looks like the state and city were able to work out an arrangement in state court," Ward said.

was filed in Greene County Circuit Court Wednesday. But EPA officials working on the case said they didn't learn about it until Thursday. They weren't the only ones sur

the settlement had been reached. "I didn't even have a hint that the AG's office was going to take any action," Moots said. "We'd been trying to push them to get involved for years."

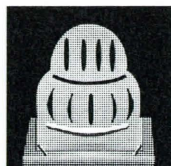
## ENVIRONMENTAL TASK FORCE

### Hog producer pleads guilty

The AG's Office, U.S. Attorney's Office, Environmental Protection Agency, Department of Natural Resources and the FBI continue to work cooperatively in bringing criminal charges against polluters.

A partnership that owned a hog production facility near Cape Girardeau pleaded guilty to charges it illegally discharged animal waste into a creek on two occasions. SEMO Pork was ordered to pay a \$20,000 fine for the 1991 discharges.



Aggressive action by attorneys in the **Governmental Affairs Division****OVERVIEW**

saved Missouri taxpayers millions of dollars in 1995. The division provides legal representation for statewide office holders, departments and divisions.

**Governmental Affairs** attorneys protect the interests of Missourians in a variety of ways and in 1995 the division had cases pending in every county. As legal representatives for the state professional licensing boards, attorneys protect the well-being of Missourians by ensuring that professionals such as doctors, accountants and real estate agents operate within the laws and disciplinary rules governing them. Action taken on behalf of Missourians before the Public Service Commission and civil action to enforce compliance with state trust laws also provide protection and representation for residents.

**TAX, COURT CASES****Tax laws defended**

- Complex litigation to defend Missouri's use tax law from challenges by Associated Industries resulted in a ruling that has saved the Missouri treasury more than \$60 million. A ruling by the court prevents Associated Industries from challenging the state's use tax law in localities where sales tax is less than the use tax. The use tax is imposed on out-of-state companies doing business in Missouri.
- Governmental Affairs attorneys also negotiated an important resolution to a constitutional challenge of the revenue laws relating to St. Louis county sales tax for capital improvements. The challenge was brought by the city of Sunset Hills on behalf of a group of cities in St. Louis County. Attorneys successfully negotiated a settlement calling for the distribution among the cities of \$5 million in sales tax placed in escrow. Attorneys also successfully avoided a constitutional challenge to the St. Louis County taxation formula.

**20-year-old lawsuit settled**

Court approval of a consent decree ended two decades of litigation in a class-action lawsuit against the Department of Mental Health. The new decree will allow the department to receive federal funding for community health services and releases the department from court-ordered constraints.

**AG action saves \$400,000 for farmers**

A victory in bankruptcy court allowed Missouri farmers to recover more than \$400,000 from a bankrupt grain company. The company's grain elevators in Callaway and Knox counties were shut by court order after audits showed the owners did not have sufficient inventory to cover outstanding grain obligations.



## IN THE NEWS

# Nixon Wins Grain Suit Money to Four Area Farmers

A victory in bankruptcy court will recover more than \$400,000 for Missouri farmers, Attorney General Jay Nixon and state Agriculture Director John L. Saunders announced Thursday, June 15.

Chief Bankruptcy Judge Frank W. Koger of the Western District of Missouri ordered the payment of the farmers' claims. Nixon's office argued successfully that farmers were entitled to reimbursement from a bankruptcy company that had grain in Knox and Callaway

hearings to determine farmers' claims to the assets and placed the funds in an interest-bearing account.

"Our grain regulatory services staff logged more than 1,500 hours to resolve this matter and ensure farmers will receive all they are owed," Saunders said.

Farmers with valid claims will be reimbursed 100 percent, beginning June 15.

Knox County farmers were in a hurry to get their reimbursement,

## Nixon seeks block on spending

CLAYTON, Mo. (AP) — The Lichtenstein charitable foundation has agreed to limit spending of the \$13 million fund while the state investigates its dealings.

Missouri Attorney General Jay Nixon and lawyers for the fund reached the agreement late Monday after Nixon filed a lawsuit in St. Louis County Circuit Court, officials said.

The lawsuit alleges the foundation:

Increased salaries for members to more than \$26,193 from zero in the 1985-90.

Listed as investment: more than \$500,000 in jewelry, gowns, artwork and other items that have earned no profit and have been kept in the Allene Lichtenstein, board member.

Paid board members legal fees of more than \$100,000 and awarded grants to other entities in violation of its

## Psychiatrist loses license for having sex with his patients

The Associated Press

WEST PLAINS — The state has revoked the medical license of a West Plains psychiatrist for having sex with his patients.

Dr. William D. Cone surrendered his license Nov. 17 in 1994.

from 1983 to January 1994, according to a state petition. He also admitted having sex with a patient in his office and at motels arranged for his stepson and himself to have sex with the patient in his office.

Cone resigned from the staff of Ozarks Medical Center in West Plains on March 22, 1994. He reportedly has moved out of Missouri. Cone and the hospital have been the subjects of several lawsuits filed by former patients, including a sexual harassment suit resolved recently in undisclosed sum to a West Plains man.

The remaining lawsuits involve allegations of Cone taking sexual advantage of patients, introducing alcohol into therapy sessions and contributing to drug abuse problems.

and ethics. The Missouri Supreme Court removed Moriarty from office last December, accepting three House-approved three articles of impeachment. The House charged her with misconduct for backdating her son's filing papers for a state legislative seat.

Nixon has also won the court-ordered ouster of local officials for violations of law such as nepotism.

"You really watch what you do now. You are constantly second-guessing," said Dennis Murphy, an alderman from Marionville in rural Lawrence County. "I've conferred more with them."

## Nixon's office gives officials ethics lessons

By The Associated Press

JEFFERSON CITY — City and county officials got a lesson in legal issues and ethics Friday following a year fraught with misconduct charges and allegations against public officials.

About 225 local officials attended a free, day-long seminar led by Attorney General Jay Nixon and his staff. Many used the opportunity to inquire about their own hometown troubles.

"Our goal is not to provide you with all the answers, and not to make you afraid to do what you were elected or appointed to do," Nixon told participants. "But it's important we all are alert to the problem areas."

One of...

## Nixon files motion opposing overlaying area code

ST. LOUIS (AP) — Attorney General Jay Nixon has filed a motion with the Missouri Public Service Commission opposing a plan to create a second area code in eastern Missouri.

The plan would greatly affect the state government and could impair the ability of citizens to communicate with public officials, Nixon said Friday.

A group of telecommunications companies, headed by Southwestern Bell, notified the PSC last month that it planned to add a second area code in the 314 region

in June 1996. The change is needed because of the growth of cellular phones, computer modems, pagers and fax machines is depleting the supply of usable numbers, the group said.

This plan would be easier than splitting the 314 area code region, which stretches from St. Louis to Hannibal and from St. Louis to Springfield, into two new geographic areas, the group said.

The plan would allow phone numbers to keep their current area codes, and all services wouldn't be affected. The hitch is that the ma-

jority of customers would have to dial 10 digits — a three-digit area code plus the normal seven-digit number — every time they place a call.

That's what has Nixon concerned.

"It could very well lead to a situation where someone would have to dial 10 numbers just to reach the person in the next office," he said.

The plan might also require an expensive retooling of the phone system, he said.

"It is vital that the citizens of

Missouri easily be able to reach the people who work for them in Jefferson City and other cities around the state," Nixon said.

At first, the PSC was unsure whether it had jurisdiction over the design of a new area code, or whether it even wanted to rule on the issue.

It asked for comment from interested parties. No one objected, so the PSC ruled Friday that it has jurisdiction over the matter, PSC spokesman Kevin Kelly said.

The PSC plans to hold a hearing on the matter on June 1 in Jefferson City. It will continue through June 2, if necessary, Kelly said.

The commission also plans to hold public hearings in the towns affected by the plan. It hopes to reach a decision on the matter by July 1.

A spokesman for the telecommunications companies said they welcomed the PSC's input, although he declined to comment on specific details contained in the order. He had no reaction to discuss Nixon's motion to intervene in the case.

Experts from 15 of the 20 companies, serving 95 percent of the customers in eastern Missouri, agree that adding a second area code would be the easiest way to add a sufficient supply of telephone numbers through the year 2006.

If a second geographical area is created, all cellular phones in the new area code's service region would have to be reprogrammed manually to accommodate the new three-digit area code, the group said.

## Case closed

Through successful litigation,



the Governmental Affairs Division saved millions of dollars for state taxpayers. They handled matters in every county and closed 957 cases.

## GOVERNMENTAL ENTITIES UNIT

Cases opened: 235

Cases closed: 230

## HEALTH AND EDUCATION UNIT

Cases opened: 583

Cases closed: 210

(The unit won 185 cases and settled 20)

## PROFESSIONAL ENFORCEMENT UNIT

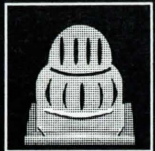
Cases referred: 390

Cases closed: 517

Licensees put on probation: 188

Licenses revoked, surrendered, etc.: 34





GOVERNMENTAL AFFAIRS  
DIVISION

## BALLOT, TRUST FUND ACTION

### Nixon fights for voters' campaign finance reform

An effort to enforce campaign finance laws adopted by 74 percent of Missouri voters in November 1994 continued in federal court throughout 1995.

Attorney General Nixon successfully defended the law in federal district court, but the ruling was reversed by a three-judge panel in the 8th U.S. Circuit Court of Appeals.

Nixon has announced plans to appeal directly to the U.S. Supreme Court.

### Trust oversight provides protection

Legal action filed on behalf of the state froze the assets of the \$13 million Lichtenstein trust fund in St. Louis resulting in the resignation of seven board members and the return of \$55,000.

The division took action to protect the trust from alleged illegal activities including personal use and mishandling of the trust fund by board members and the purchases of nearly \$600,000 in items such as jewelry, ball gowns, artwork, crystal statues.

Also, the division obtained an agreement that trust fund activities will be limited and reviewed by the AG's Office during an accounting review of board records and activities. The battle to permanently remove the director and her twin sister from the board continues.

## Agency representation

Among the agencies and officials represented by the Governmental Affairs Division:



### GOVERNMENTAL ENTITIES UNIT

- Governor
- Lieutenant governor
- Treasurer
- Secretary of State
- Auditor
- Agriculture Department
- Economic Development Department
- Gaming Commission
- Missouri Lottery
- Office of Administration
- Public Service Commission
- Revenue Department
- State Tax Commission

### HEALTH AND EDUCATION UNIT

- Mental Health Department
- Health Department
- Social Services Department
- Coordinating Board for Higher Education
- Education Department

## STATE SAVINGS

### Millions on the line

Other cases of extreme financial importance to the state include:

- The successful defense of the state's limited liability statute in a tort action against the Highway and Transportation Department. The court upheld the constitutionality of the \$100,000 liability limit for the state and declined to award interest payments prior to judgment.
- Success in the court room prevented an attempt to halt construction of a new 1,200-bed correctional facility in Cameron. Legal actions by Governmental Affairs attorneys allowed the contract awarded to stand and the construction of the prison to proceed.



# Professional Enforcement Unit

Attorneys in the Professional Enforcement Unit serve as general counsel for these state professional licensing boards and agencies:



- Board of **Accountancy**
- Board of **Architects, Professional Engineers and Land Surveyors**
- Office of **Athletics**
- Board of **Barber Examiners**
- Board of Licensed **Clinical Social Workers**
- Board of **Cosmetology**
- **Dental** Board
- Board of **Embalmers and Funeral Directors**
- Office of **Employment Agencies**
- **Endowed Care Cemeteries**

- Board of **Geologists**
- Board of Registration for the **Healing Arts**
- **Healing Arts** Advisory Committees
- Health Facilities Review
- Board of **Hearing Aid Dealers and Fitters**
- **Housing Development Commission**
- Landscape **Architectural** Council
- Marital and Family Therapists
- **Motor Vehicle** Commission
- Board of **Nursing**
- Board of **Nursing Home Administrators**

- **Occupational Therapists and Respiratory Care Practitioners**
- Board of **Optometry**
- Board of **Pharmacy**
- Board of **Podiatry**
- Committee of **Professional Counselors**
- Division of **Professional Registration**
- Board of **Psychology**
- Board of **Real Estate Appraisers**
- **Real Estate** Commission
- **Speech Interpreters**
- **Veterinary Medical Board**

## PROFESSIONAL ENFORCEMENT

### Professionals disciplined

Thirty-four professionals lost their licenses last year and 188 were put on probation by professional licensing boards represented by Governmental Affairs attorneys.

Included in that number:

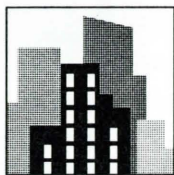
- A St. Louis psychologist's license was revoked for having sexual relations with two patients.
- Five funeral home operators in Joplin were put on probation for allowing an unlicensed embalmer to practice. The operators also paid about \$25,000 in restitution to families of those embalmed by the unlicensed assistant.

## CONSUMER ADVOCATE

### Nixon successful in keeping cities with one area code

Fighting for easy access to state government, the attorney general successfully opposed a plan by Southwestern Bell to overlay a new telephone area code within the existing 314 area code. The plan could have resulted in 10-digit phone numbers and multiple area codes within state agencies.



**The Labor Division****OVERVIEW**

provides general counsel and litigation services for the Missouri Department of Labor and Industrial Relations and its officers and agencies. In addition, the division represents the Second Injury Fund, which pays supplementary benefits to deserving injured workers.

**Attorneys** represent claimants before the Missouri Commission on Human Rights when discrimination is alleged. They also represent the state in prevailing wage disputes and workers' compensation cases of state employees.

**SECOND INJURY FUND****Cases continue to be resolved**

The Labor Division continued to resolve a large number of Second Injury Fund cases through settlement, dismissal and hearing.

In fiscal 1995, 12,268 cases were closed. Of these, 3,943 were settled, 8,025 were dismissed and 300 cases were tried.

By the end of 1995, the Labor Division had a caseload of about 28,000 cases.

Total fund expenditures in 1995 were \$23.7 million, significantly less than the \$31.2 million and \$31.5 million spent respectively in fiscal 1991 and 1992.

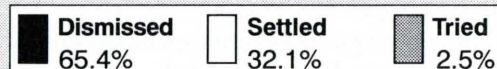
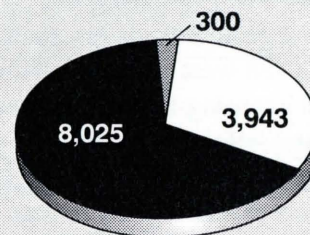
New filings in fiscal 1995 (10,133) were about the same as fiscal 1994 (9,925), down about 28.5 percent from a high of 14,000 in fiscal 1992.

In fiscal 1995, Labor Division attorneys represented SIF in 112 appeals decided by the Labor and Industrial Relations Commission and 41 appeals decided by the Court of Appeals.

Aggressive defense of the Second Injury Fund has contributed to a fund surplus and has resulted in close to \$100 million in tax cuts for Missouri businesses.

**Second Injury Fund cases**

In fiscal 1995, the Labor Division closed 12,268 Second Injury Fund cases:





## **Labor Division slashes backlogged cases**

Labor attorneys have significantly reduced the number of backlogged cases of victims awaiting a pre-hearing conference or a hearing.

The victims had been denied compensation for failure to meet statutory requirements for the Crime Victims' Compensation Fund of which the Labor



Division serves as legal counsel.

In March 1994, there were 354 cases on the docket. By April 1995, the docket had been reduced to 43 cases through settlement, dismissal or hearing.

With the reduction came a quicker response time. Hearings now are held within a month or two after an appeal is filed.

### **COMMISSION ON HUMAN RIGHTS**

#### **Claimants awarded damages**

In the Commission on Human Rights area, the Labor Division obtained a recommended award of \$320,000 in damages in favor of a woman who claimed to have been sexually harassed on the job.

In another case, the division obtained a commission order awarding the complainant \$18,000 in damages for handicap discrimination in employment.

### **PREVAILING WAGE**

#### **Ruling will help ensure proper wages are paid**

In a case successfully argued by the Labor Division, an appeals court upheld a rule that will help the Department of Labor and Industrial Relations make sure workers on public construction projects are paid the proper wages.

The rule helps determine wage rates by giving consistent and uniform meaning to various types of work performed in public works projects statewide.

### **WORKERS' COMPENSATION**

#### **Division successfully represents state in injury cases**

The division continued to successfully represent the state in workers' compensation cases.

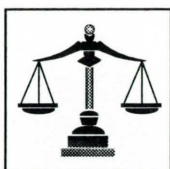
In all eight Central Accident Reporting Office (CARO) cases pursued to hearing, a finding of no or minimal liability was obtained. (When state employees are injured on the job and file a workers' comp claim, most go through CARO, which is part of the Office of Administration.)

In one workers' comp case appealed before the Missouri Supreme Court, the court ruled for the state.

**Labor attorneys have slashed the number of backlogged cases of those seeking money from the Crime Victims' Compensation Fund. In March 1994, there were 354 cases on docket. By April 1995, there were 43 cases.**



The **Litigation Division**, with one of the busiest dockets in the AG's Office, provides legal defense to state agencies and employees.



### OVERVIEW

Division attorneys litigate cases that affect millions of people. They defend lawsuits filed by state prisoners, handle legal action stemming from court-ordered desegregation in Kansas City and St. Louis, and defend constitutional challenges to state laws and ballot issues.

**They also** sue to recover money fraudulently taken from the state, defend employment and tort cases, and litigate cases to determine whether state programs comply with federal law.

## DESEGREGATION

### U.S. Supreme Court ruling sets state on new course

The U.S. Supreme Court signaled a new direction for the state in the Kansas City desegregation case when it ruled in favor of the AG's Office on every issue presented in the state's challenge to an appeals court ruling.

The lower court ruling had mandated raises for all school employees and continued desegregation payments until Kansas City students' test scores reach a national average.

Argued by Litigation Division Chief Counsel **John Munich**, the U.S. Supreme Court agreed with the state that scores should not be a factor in determining whether the district has dismantled a segregated system. It also reversed the lower court's order for the state to provide across-the-board raises.

The decision laid the foundation to end the 18-year-old desegregation case.

Since the June 12 decision, the AG's Office has negotiated vigorously to end the Kansas City desegregation case.

A day after settlement talks broke down in November, AG attorneys asked the federal courts to slash deseg payments to the Kansas City schools and to immediately enforce the U.S. Supreme Court decision.

### Unarguably the best:

#### *AG's Office awarded*

The National Association of Attorneys General awarded the AG's Office with two of the four top honors for 1995 Best Briefs Award. The annual awards represent the best briefs submitted by state attorneys in cases argued before the U.S. Supreme Court.

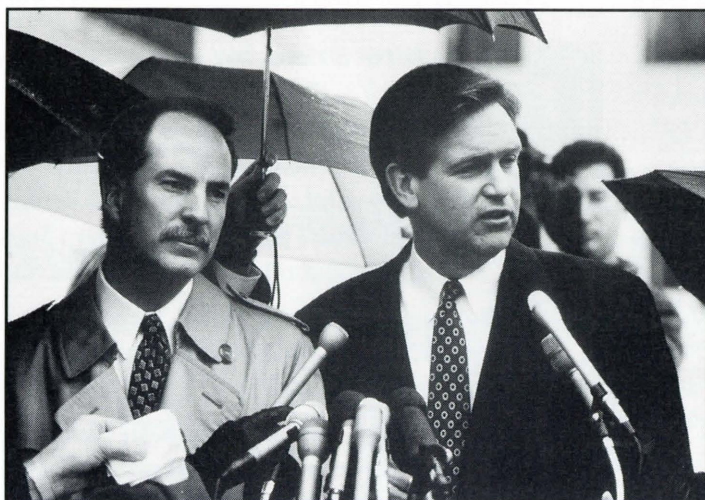
Litigation Chief John Munich was principal author of the briefs and Missouri's petition for certiorari and reply brief in the Kansas City desegregation suit, *Jenkins v. Missouri*.

### Motion filed to return control of St. Louis schools to district

The AG's Office continued work to return control of the St. Louis schools to the school district and state and to end more than 15 years of court-supervised desegregation.

The AGO has filed a motion and is preparing to present its case in court in March 1996. If successful, almost all school district operations would be returned to local and state control, subject to completion of a brief phase-out period allowing the district to plan an orderly resumption of control.





## DESEG Q&A

Attorney General **Jay Nixon** (right) and Litigation Chief Counsel **John Munich** field questions from the media following desegregation arguments in *Jenkins v. Missouri* at the U.S. Supreme Court on Jan 11.

## INMATE ISSUES

**In 1995**, the AG's Office continued its mission to effectively and creatively curb frivolous or malicious inmate lawsuits.

The Missouri legislature passed a law, proposed by AG **Jay Nixon**, to reduce these meritless inmate lawsuits that sap millions of dollars from the judicial system in attorney fees, support staff time and court costs.

Penalties for frivolous filers include a 60-day delay of parole hearings or fines deducted from their prison spending account for each violation.

### Inmates warned, cases dropped

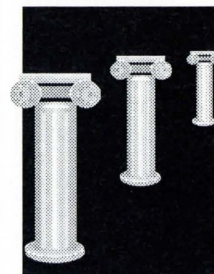
Litigation attorneys have informed frivolous lawsuit filers, including more than a dozen frequent filers, of the new law's consequences. They also have warned inmates the AG's Office will seek costs against them.

In response, many already have dismissed their cases. In one case, an attorney obtained dismissal of an excessive force case after catching the inmate lying. In deposition, the inmate claimed he did not make any threatening move toward an officer, but in a criminal proceeding the inmate pleaded guilty and admitted striking the officer. Caught lying under oath and threatened with sanctions, the inmate dropped his case.

### Inmate cases dropped before trial

Other inmate suits litigation attorneys defended that were disposed of without trial:

- A federal district judge dismissed portions of a lawsuit by 43 inmates who claimed they were constitutionally entitled to a salad bar and weekend brunch. They also asked for \$129 million in punitive and actual damages. The judge said the frivolous claims did not violate inmates' constitutional rights.
- The AG's Office disproved an inmate's claim he had no access to the law library for seven months. Attorneys showed he had made 87 visits to the library and had visits from an inmate law clerk while in administrative segregation.
- An inmate claimed medical treatment was delayed for a bad back. Litigation attorneys won summary judgment and costs after submitting evidence, including a videotape of the inmate playing full-court basketball.
- An appeals court ruled against a prisoner who claimed he did not receive proper medical treatment for a broken hand. The inmate did not state on verifying medical evidence that prison officials ignored an



## Closing cases

*Total cases assigned to Litigation attorneys in 1995:*

**615**

*Cases closed:*

**964**



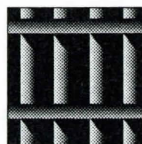


## LITIGATION DIVISION

## INMATE ISSUES

“acute or escalating situation” or that their delays adversely affected his prognosis.

The 8th Circuit held the prison officials should have been granted summary judgment. This was the first time the 8th Circuit addressed the medical verification issue. The Litigation Division had argued for years that inmates should be required to show verifying medical evidence to substantiate complaints. The case has been a powerful tool in resolving inmate medical issues on summary judgment.



### Jurors rule for prison officials

- An inmate claimed a corrections official refused to issue him a chair to do back exercises and was thereby deliberately indifferent to his serious medical needs. Litigation attorneys argued the inmate had other means of exercising.
- An inmate claimed three corrections officers beat him. No medical evidence supported his claims.
- An inmate claimed eight corrections officers beat him for eight minutes. No medical evidence supported his claims.

## Litigation lawyers dip into inmates' pockets

**Litigation attorneys** recovered a record \$92,290 from inmates to help pay for their prison stay.

The 1995 reimbursements are more than double the recoveries made in the two previous years. In 1994, the division recovered \$23,000. In 1993, \$13,000 was obtained.

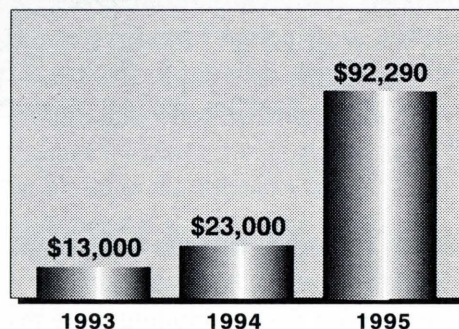
The 1988 Incarceration Reimbursement Act allows the state to recover up to 90 percent of an inmate's assets after any obligations to a spouse or child are met. Among the 19 recoveries made:

- **\$28,000 from Ernest Taylor.** Sentenced to 30 years for second-degree murder, first-degree assault and armed criminal action. The state's reimbursement came from a parent's \$36,000 life insurance policy.
- **\$9,212 from Daniel Lewis Johnson.** In prison for second-degree murder. Prior to committing second-degree murder, Johnson won the Illinois lottery for which he receives \$185,000 a year. He has paid for every day of his incarceration.
- **\$4,135 from Corey Hines.** The convicted St. Louis drug dealer is serving 10 years. His funds are from a parent's life insurance policy.

### Inmate recoveries at record high



Inmate reimbursements for 1995 are more than double the recoveries made in the two previous years:



- **\$4,932 from Daphne Brandy.** She was released after serving time for passing bad checks and stealing over \$150. Recoveries came from a pension plan.



# Nixon battles for the people

Missouri Attorney General Jay Nixon is taking the proper action in appealing federal judges' decisions.

## Proposal would curb frivolous inmate lawsuits

Ron Davis / News-Leader

Nearly 1,000 times last year, inmates in Missouri prisons filed lawsuits — usually against the state, the conditions behind the walls.

More than nine times 10, courts dismissed the suits as ridiculous. Many of them were filed by inmates who demanded unlimited refills of Kool-Aid. But you help pay for those suits — about \$2.5 million in 1994, spent on lawyers to fight the causes.

Aided by a Springfield lawmaker,

the state attorney general is making a push to radically curtail the ways prisoners can sue over allegedly frivolous matters.

The lawmaker

**'Hit these inmates where it hurts.'**

— Jay Nixon



be hurt the most," Nixon said.

prison sentence. Find themselves on Nixon's Top 10 list of "frequent filer" prisoners, adding this year's version of Leroy Taylor, convicted of kidnap and rape. He's filed 122 suits since 1969. "I praised Hosmer for helping to curb proliferation of frivolous suits... who stretch the credibility of the courts. But the attorney frequently pledged not to sue on valid inmate rights. Hosmer, who said his legal fees only on the most outrageous suits — the demands for cash or foodstuffs.

"We're not kidding anybody that

law can be fully enforced. He asserted, "If granted, this would allow the full and immediate enforcement of Proposition A. This is a matter of immediate public concern. The public, as well as the candidates, deserve to know the status of the law."

The new law is being challenged on the ground it deprives citizens of the right to contribute to political candidates by restricting such contributions. The proposition limits individual contributions to \$300 statewide candidates, \$200 for Missouri state candidates and \$100 for Missouri use of Representatives candidates.

As much as three-quarters of the Missourians who went to the polls in November approved the new law, it should be upheld by the courts. After all, shouldn't the will of the people be an important factor in a judicial decision?

## Attorney general promises fight for voter approved campaign finance law

SPRINGFIELD, Mo. (AP) — Attorney General Jay Nixon promised

cent," Nixon said. "Missourians want to have a strict campaign finance law, and we will continue to enforce it. This is an early important skirmish in what will probably be a full-blown legal battle." The lawsuit was filed earlier this month by Springfield attorney Thomas D. Carver, who claimed the law violated the constitutional rights of Nixon, who claimed the law violated the constitutional rights of Nixon.

campaign election laws, are named as defendants in the lawsuit. Proposition A was approved by a nearly 3-to-1 margin — 1,186,113 to 418,630 — in the Nov. 8 general election. It restricts contributions to \$300 for statewide candidates, \$200 for state Senate candidates and \$100 for state House candidates.

an election a candidate's treasury not exceed an amount greater than 10 times the individual contribution limit for that office.

"Contributing to candidates and soliciting contributions for candidates is an essential part of the election process," Clark said in his restraining order. Carver said Wednesday's ruling indicates the prospects for winning the case look good.

## K.C. schools

High court makes good call

Chalk one up for Missouri Attorney General Jay Nixon. Better yet, chalk one up for all Missourians.

A ruling by the U.S. Supreme Court that school desegregation even if test scores fail it was a victory for common sense.

The decision instructed Russell Clark, chief of the Kansas City magnet school Circuit Court of Appeals, financial role in the process is to be measured.

It would appear, at first

It would appear, at first glance, that Nixon got just about everything that he wanted...

## Nursing home supervisor faces charges

By DAVE FULTS  
News Tribune

CALIFORNIA — Attorney General Jay Nixon on Tuesday filed six felony counts of neglect of a nursing home resident against a supervisor at the former Lathrop

## Nursing home aide charged in abuse

By Robert Keyes  
News-Leader

As an Americana Health Center nurse's aide, Roy Verlin Rogers had never attracted any negative attention to himself.

Then last week a health center coworker reported catching Rogers commit what police described as a deviant sexual assault of an 81-year-old female resident.

The state attorney general's office in

prosecutors filed a rarely used state felony charge against Rogers: abusing a resident of a skilled-nursing facility.

The 65-year-old Conway man was released from the county jail Wednesday.

The woman, 29, said that because she was alone, she was

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"Our facility has a long history of delivering the highest quality of care, and we take any kind of complaints regarding our residents very seriously," she said.

In investigating the report, "we did

Police say Rogers, who had no criminal history, admitted fondling himself and the resident simultaneously in her room about 9:35 a.m. Dec. 6.

Americana fired Rogers when the attorney general's investigation substantiated the allegations.

abuse, said Carol Floyd of the Missouri Division of Aging in Springfield.

She had no figures available, she said residents are vulnerable.

"Some of them are confused; they're defenseless, and there's nothing to be a certain element of people who take advantage of that."

A 24-hour hotline used to report last week's abuse is one line, Floyd said.

But without a witness, she

## Missouri to receive \$1.2 million for Medicaid fraud

A national health care provider will pay more than \$1.2 million to Missouri as part of an agreement over claims of kickbacks and overpricing, Attorney General Jay Nixon announced.

The money is being recovered from Caremark Inc. of Northbrook, Ill., by the Attorney General's Medicaid Fraud Control Unit as part of an agreement.

"The Medicaid Fraud Control Unit was established within the Attorney General's Office last year to investigate these fraudulent and unscrupulous activities that cost Missouri taxpayers millions each year," Nixon said. "This unit has repaid Missouri taxpayers many times over with this settlement and a \$3 million settle-

*The  
Litigation  
Division in  
1995  
provided  
legal  
defense in  
more than  
1,700 state  
and federal  
cases  
involving  
some of  
Missouri's  
most  
complex  
legal issues.  
It disposed  
of 964  
cases.*





## LITIGATION DIVISION

### SECOND INJURY FUND

#### Division successful in cases

Litigation attorneys won two significant battles in efforts to recoup money pilfered from Missouri's Second Injury Fund:

■ The federal district court gave Attorney General Nixon the go-ahead to pursue civil damages against St. Louis lawyers Morris Kessler and William Roussin and nine others involved in abusing the fund.

Nixon is seeking damages for violation of the Racketeer Influenced and Corrupt Organization Act (RICO) and state laws.

■ The U.S. Supreme Court refused to hear an appeal of an 8th Circuit decision that allowed the state access to material collected in the federal grand jury investigation of the fund. The defendants vigorously fought, arguing the material was protected by grand jury secrecy rules. Litigation attorneys successfully argued the state had a particularized need for the information to properly pursue their civil case.

### CASE ROUNDUP

#### State not violating disabilities act

Litigation and Labor Division attorneys successfully defended a federal lawsuit claiming Missouri's workers' compensation statutes and the Attorney General's settlement guidelines violated the Americans With Disabilities Act. The federal court ruled the ADA did not apply.

#### 3 charged with election fraud in Independence

Following an investigation by the AG's Office and the Highway Patrol, three Independence residents were arraigned on felony charges of knowingly furnishing false information to an election authority. Litigation attorneys obtained grand jury indictments following the investigation of a petition drive, which contained alleged forgeries, false statements and the names of dozens of dead people. The AG's Office was appointed special prosecutor because of a conflict of interest.

#### Attorneys save state \$130,000

The division successfully appealed a federal district court order finding that the Department of Mental Health breached a settlement agreement. More than \$130,000 was awarded against the department. The 8th Circuit reversed, finding the district court lacked jurisdiction to determine whether the agreement was violated.

#### Creative defense wins case

An appeals court affirmed summary judgment against a former corrections officer who claimed discrimination when denied re-employment. The court relied on the state's videotape showing the plaintiff was unable to perform essential job functions — defensive tactics required of all officers. Use of the tape has been cited as a creative defensive strategy by at least two national law reporters.

#### Judge grants prison request

The Corrections Department requested the AG's Office to file a motion modifying the inmate numbers in a class-action case. The department wants to increase the inmate numbers by 300 in the Moberly Correctional Center. The judge granted an emergency increase raising the cap to 1,800 inmates.



**Since its inception** in mid-1994, the Medicaid Fraud Control Unit has been working aggressively to prosecute those who illegally profit from the Medicaid program and also those who abuse nursing home residents. Since that time, it has collected about \$4.2 million in restitution and penalties from Medicaid providers.

## Unit recovers \$1.2 million

The unit recovered more than \$1.2 million from a national home health-care provider as part of a settlement over claims of kickbacks and overpricing.

Caremark Inc. allegedly defrauded Medicaid programs by making kickbacks to physicians and other providers as incentives to use its services. Caremark also was accused of overpricing some services when billing Medicaid.

Missouri's share is part of a \$44.5 million multistate agreement with all 50 states and the District of Columbia.

## Counseling center owners plead guilty to fraud

In a case investigated by the fraud unit in cooperation with the U.S. Attorney's Office, the operators of Pais Counseling Center in St. Louis pleaded guilty to Medicaid and mail fraud.

Indictments were returned against Feryle Cooper and Stanford Cooper for obtaining reimbursement for counseling services provided by individuals not licensed as Medicaid providers.

The fraud unit worked with the U.S. Attorney on about a dozen Medicaid fraud cases in 1995. "Medicaid fraud costs Missourians millions in tax dollars and an untold amount of increased health-care costs. We now have a united front to combat fraud," Attorney General Nixon said.

## Nursing home abuse prosecuted

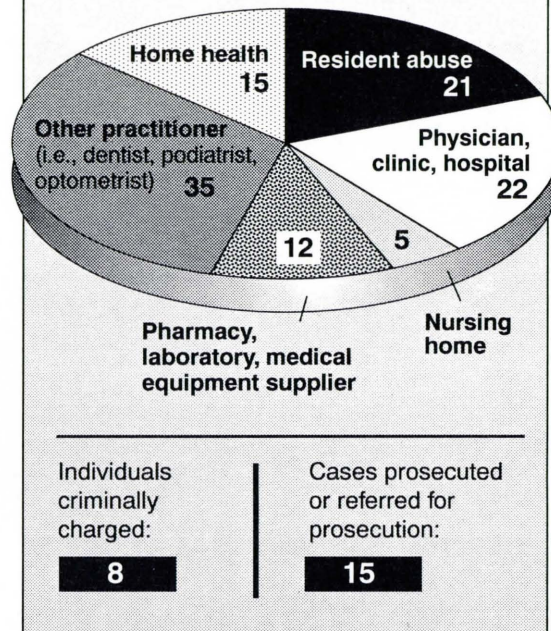
The fraud unit aggressively prosecuted several patient abuse cases. Among them:

- Five felony counts of abuse were filed against a Salisbury nurse's aide who allegedly abused three nursing home residents at Chariton Park Health Care Center by bending back their thumbs and slapping and force-feeding them. The AG's Office had jurisdiction to file the charges because the residents receive Medicaid.

- Barbara Peoples, a supervisor at the former Latham Care Center in California, Mo., was found guilty of six felony counts of neglect of a nursing home resident. The AG's Office charged that Peoples knowingly failed to provide medical care and evaluation after receiving six staff reports in three days that Edwin Herman had become extremely ill. He died the third day.
- Following an investigation by the fraud unit, a Springfield nurse's aide was arrested and charged with abusing a nursing home resident. The male aide allegedly sexually assaulted an 81-year-old female at Americana Health Center.

## Medicaid fraud abuse

The Medicaid Fraud Control Unit handled 110 active cases involving individuals and entities such as physicians, home health-care providers and nursing homes. Nearly one-fifth, or 21 cases, involved resident abuse:







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